

## **TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: LEISURE AND RECREATION

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#### **PARKS**

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

The municipality owns and operates the municipal parks and other recreational areas through the City Manager. The City Council, for the purpose of defraying the cost of the care, management and maintenance of the municipal park, may each year levy a tax not exceeding the maximum limit

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prescribed by state law on the taxable value of all taxable property within the corporate limits. The revenue from the tax shall be known as the park fund and shall remain in the custody of the Municipal Clerk-Treasurer. The City Manager shall have the authority to adopt rules and regulations for the efficient management of the municipal parks and other recreational areas of the municipality.

(1977 Code, § 3-501) (Ord. 80-656, passed 3-10-1980)

**Statutory reference:**

*Recreation centers and areas generally, see Neb. RS 17-948 through 17-952*

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

**Cross-reference:**

*Trespassing in city park, see § 130.02*

### § 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.

(1977 Code, § 3-502) Penalty, see § 10.99

**Statutory reference:**

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

### § 90.03 VALENTINE MILL POND RECREATION AREA.

(A) *Title.* This section shall be known and cited as the “Valentine Mill Pond Recreation Area”.

(B) *Boundary.* The area consisting of the city-owned real estate and structures thereon, together with the surface waters consisting of the Valentine Mill Pond and Minnechaduzza Creek, in an area bounded on the east by the Valentine Park Road, on the west by U.S. Highway 83, on the north by the northern boundary of the city-owned real estate adjacent to the Valentine Mill Pond and the northern shore line of the Valentine Mill Pond, and on the south by the southern boundary of the city-owned real estate adjacent to the Valentine Mill Pond and the southern shore line of the Valentine Mill Pond, is hereby designated as the Mill Pond Recreation Area.

(C) *Rules and regulations.* The following rules and regulations shall apply to the Valentine Mill Pond Recreation Area.

(1) Except as provided in Neb. RS 53-186, it is unlawful for any person to consume alcoholic liquor within the Mill Pond Recreation Area owned or controlled by the city.

(2) It is unlawful for any person to possess an open alcoholic beverage container as defined by Neb. RS 60-6,211.08, within the Mill Pond Recreation Area owned or controlled by the city.

(3) It shall be unlawful for any person to fire or discharge any firearm, including air guns or BB guns, within the Mill Pond Recreation Area owned or controlled by the city.

(4) (a) Any person who deposits, throws, discards or otherwise disposes of any litter on any public or private property or in any waters within the Mill Pond Recreation Area commits the offense of littering unless the litter is placed in a receptacle or container installed on such property for such purpose.

(b) The word **LITTER** as used in this section shall mean all waste material susceptible of being dropped, deposited, discarded or otherwise disposed of by any person. **WASTE MATERIAL** as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(5) It is unlawful to camp within the Mill Pond Recreation Area owned or controlled by the city.

(6) It is unlawful to operate a motor vehicle on any roadway within the Mill Pond Recreation Area owned or controlled by the city, at a speed greater than 10 mph, unless a different rate of speed is specifically permitted by ordinance.

(7) It is unlawful to operate gas-powered boats, personal watercraft (also known as jet skis), snowmobiles or all terrain vehicles within the Mill Pond Recreation Area owned or controlled by the city.

(8) The Mill Pond Recreation Area owned or controlled by the city shall be closed to all members of the public from one-half hour after sunset to one-half hour before sunrise, and any person who enters the area during the closed time shall be deemed a trespasser and subject to arrest and prosecution for criminal trespass pursuant to state law.

(9) Activities such as swimming, fishing, boating or skating shall be at the risk of the participant within the Mill Pond Recreation Area.

(10) It shall be unlawful to have open fires. Fires shall be confined to grills or fire rings established by the city.

(11) The city shall post these rules and regulations on signs in conspicuous places within or adjacent to the Mill Pond Recreation Area.

(Ord. 2002-2001M, passed 11-18-2002) Penalty, see § 10.99

**SWIMMING POOLS****§ 90.15 OPERATION AND FUNDING.**

The municipality owns and manages the municipal swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance and improvements of the swimming pool may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the municipality. The revenue from the tax shall be known as the swimming pool fund and shall include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The swimming pool fund shall at all times be in the custody of the Municipal Clerk-Treasurer. The City Manager shall manage the swimming pool. The City Manager shall have the power and authority to hire and supervise and such employees as he or she may deem necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation.

(1977 Code, § 3-601) (Ord. 80-657, passed 3-10-1980)

**Statutory reference:**

*Recreation centers and areas generally, see Neb. RS 17-948 through 17-952*

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

**§ 90.16 ADMISSION CHARGE.**

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing and beautifying the swimming pool, make a reasonable admission charge for the use by any person of the municipal swimming pool. The charges shall be on file at the office of the Municipal Clerk-Treasurer and shall also be posted in a conspicuous place at the municipal swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner, provided that nothing in this section shall be construed to permit or allow discrimination on the basis of race, sex, religion, color, national origin or ancestry in the classification of persons for admission charges.

(1977 Code, § 3-602) (Ord. 80-657, passed 3-10-1980)

**Statutory reference:**

*Authority to charge fees and prescribe regulations, see Neb. RS 17-949*

*Discrimination prohibited, see Neb. RS 20-132*

**§ 90.17 RENTALS.**

The City Manager shall have the authority to rent the municipal swimming pool to such organizations and other persons as it may in its discretion see fit. The City Manager shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the Municipal Clerk-Treasurer and posted in a conspicuous place at the municipal swimming pool.

(1977 Code, § 3-603) (Ord. 80-657, passed 3-10-1980)

**§ 90.18 RULES AND REGULATIONS.**

The City Manager shall have the power and authority to prescribe rules and regulations for the protection of those using the swimming pool and for the efficient management thereof. He or she may provide suitable penalties for the violation of such rules and regulations.

(1977 Code, § 3-604) (Ord. 80-657, passed 3-10-1980) Penalty, see § 10.99

***LIBRARY***

**§ 90.30 OPERATION AND FUNDING.**

(A) The municipality owns and manages the municipal library through the Library Board.

(B) The City Council, for the purpose of defraying the cost of the management, purchases, improvements and maintenance of the library, may each year levy a tax, not exceeding the maximum limit prescribed by state law, on the taxable value of all the taxable property within the municipality. The amount collected from the levy shall be known as the Library Fund.

(Neb. RS 51-201)

(C) 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.

(D) 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 Clerk-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)

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

(1977 Code, § 3-701)

**§ 90.31 LIBRARY BOARD; 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) (1977 Code, § 3-703)

(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) (1977 Code, § 3-704)

### **§ 90.32 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)

### **§ 90.33 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 three 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 one 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)

#### **§ 90.34 MORTGAGES; RELEASE AND 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)

#### **§ 90.35 COST OF USE.**

(A) Except as provided in division (B) below, the library and reading room shall be free of charge for the use of the inhabitants of the city and Cherry County, 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 and Cherry County. 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)

### **§ 90.36 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) (1977 Code, § 3-706)

### **§ 90.37 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)

### **§ 90.38 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)

**§ 90.39 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)

**§ 90.40 IMPROPER BOOK REMOVAL.**

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book or any other material from the library, without the consent of the Librarian or an authorized employee of the library. Any person removing a book or other material from the library without properly checking it out shall be deemed to be guilty of an offense.

(1977 Code, § 3-705) Penalty, see § 10.99



## CHAPTER 91: CEMETERY

### Section

- 91.01 Operation and funding
- 91.02 Conveyance of lots
- 91.03 Forfeiture of lots
- 91.04 Perpetual care
- 91.05 Lot curbing
- 91.06 Shrubs and trees
- 91.07 Grave depth
- 91.08 Destruction of property
- 91.09 Reclamation
- 91.10 Lots; opening and closing; fees

### § 91.01 OPERATION AND FUNDING.

(A) The municipality owns and manages the municipal cemetery through the Cemetery Board.

(B) (1) The City Council, for the purpose of defraying the cost of the care, management, maintenance and beautification of the cemetery, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the municipality that is subject to taxation for general purposes.

(2) The revenue from the tax shall be known as the cemetery fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds or other valuable income-producing personal property and real estate from any source for the purpose of endowing the cemetery.

(3) The cemetery fund shall at all times be in the custody of the Municipal Clerk-Treasurer.

(C) (1) The Board shall have the power and authority to hire and supervise such employees as it may deem necessary and to pass such rules and regulations for the operation of the cemetery as may be proper for its efficient operation.

(2) All actions by the Board shall be under the supervision and control of the City Council.

(1977 Code, § 3-801)

**Statutory reference:**

*Cemetery board; taxing authority, see Neb. RS 12-401 through 12-403*

*Levy limits, see Neb. RS 12-402, 17-938 and 77-3442*

**§ 91.02 CONVEYANCE OF LOTS.**

The City Council may convey cemetery lots by certificate signed by the City Council President, and countersigned by the Municipal Clerk-Treasurer under the municipal seal, specifying that the person to whom the same is issued is the owner of the lot described therein by number for the purpose of interment. The certificate shall give a right in fee simple to the proprietor, his or her heirs, and assigns. The certificate shall then be recorded in the office of the Register of Deeds.

(1977 Code, § 3-802)

**Statutory reference:**

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

**§ 91.03 FORFEITURE OF LOTS.**

If, for three consecutive years, all charges and liens are not paid by the holders of the lot certificates, the certificates shall be declared forfeited and subject to resale. All certificates sold shall contain a forfeiture clause to the effect that if no interment is made on the lot and all liens paid, the certificate and the rights under the same may, at the option of the City Manager, with the sanction of the City Council, be declared null and void and the lot shall be subject to resale.

(1977 Code, § 3-803)

**Statutory reference:**

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

**§ 91.04 PERPETUAL CARE.**

The Municipal Clerk-Treasurer shall allocate and set apart a percentage of the entire amount paid for lots or burial spaces if the lots or burial spaces are to be endowed with perpetual care. The fund shall be permanent in nature, and as it accumulates shall be invested in such interest bearing securities as are authorized by state law. The income earned thereon shall be used solely for the purposes of perpetual care for the cemetery lots. Any lot owner who shall not have, prior to the purchase of his or her lot, endowed his or her holdings with perpetual care, may do so by paying to the Municipal Clerk-Treasurer such sum of money as the City Manager may in each case fix and determine. Thereafter, the owner shall not be liable for the payment of an annual maintenance assessment.

(1977 Code, § 3-805)

**§ 91.05 LOT CURBING.**

It shall be hereafter unlawful for the owner of any lot to construct, maintain or suffer to remain any curbing around any lot or burial space therein of a height greater than one inch.

(1977 Code, § 3-808) Penalty, see § 10.99

**§ 91.06 SHRUBS AND TREES.**

It shall be unlawful, without the written permission of the City Manager, to plant, maintain or suffer to remain on any cemetery lot a shrub or tree attaining a height of more than four feet.

(1977 Code, § 3-809) Penalty, see § 10.99

#### **§ 91.07 GRAVE DEPTH.**

Graves shall not be less than six feet deep; provided, nothing herein shall be construed to prohibit the use of mausoleums or other recognized methods of interring deceased persons if such a burial procedure is approved by the City Manager.

#### **§ 91.08 DESTRUCTION OF PROPERTY.**

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

(1977 Code, § 3-811) Penalty, see § 10.99

***Statutory reference:***

*Criminal mischief, see Neb. RS 28-519*

#### **§ 91.09 RECLAMATION.**

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

***Statutory reference:***

*Provisions on reclamation of lots, see Neb. RS 17-938*

**§ 91.10 LOTS; OPENING AND CLOSING; FEES.**

Upon completion of all requirements for the burial of a deceased person as specified in this chapter, any person may apply to the City Clerk-Treasurer for the opening and closing of any cemetery lot designated for the burial of the deceased person. The city shall charge fees for the opening and closing which shall be paid by the applicant at the time of the application, which are hereby adopted by reference and a copy of which can be found in the office of the City Clerk-Treasurer.

(1977 Code, § 3-812) (Ord. 90-957M, passed 3-19-1990; Ord. 97-1014M, passed 3-17-1997; Ord. 2006-2050M, passed 3-24-2006)



## CHAPTER 92: FIRE REGULATIONS

### Section

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- 92.01 Preservation of property
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- 92.40 Poisonous and flammable gases

### **GENERAL PROVISIONS**

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

The Fire Chief, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The Fire Chief may direct the municipal firefighters to remove any building, structure or fence for the purpose of checking the progress of any fire. The Fire Chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

(1977 Code, §§ 3-307, 7-101)

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

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist or refuse to obey the Municipal Fire Chief, or to act in a noisy or disorderly manner. The Fire Chief and Assistant Fire Chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties. (1977 Code, § 7-102) Penalty, see § 10.99

**Statutory reference:**

*Interfering with a firefighter, see Neb. RS 28-908*

*Obstructing government operations, see Neb. RS 28-901*

#### **§ 92.03 EQUIPMENT; DESTRUCTION OR INTERFERENCE.**

It shall be unlawful for any person except the Fire Chief and the members of the Municipal Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the municipality. (1977 Code, § 7-103) Penalty, see § 10.99

#### **§ 92.04 INTERFERENCE WITH PERSONNEL.**

It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty. (1977 Code, § 7-104) Penalty, see § 10.99

**Statutory reference:**

*Interfering with firefighter, see Neb. RS 28-908*

#### **§ 92.05 OBSTRUCTION OF HYDRANTS.**

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

(1977 Code, § 7-105) Penalty, see § 10.99

**Statutory reference:**

*Prohibition on parking within 15 feet of fire hydrant, see Neb. RS 60-6,166*

#### **§ 92.06 ASSISTANCE REQUIRED.**

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

(1977 Code, § 7-106) Penalty, see § 10.99

**Statutory reference:**

*Disobeying lawful orders of firefighter, see Neb. RS 28-908*

**§ 92.07 DRIVING OVER HOSE.**

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

(1977 Code, § 7-107) Penalty, see § 10.99

**Statutory reference:**

*Restrictions on driving over unprotected fire hose, see Neb. RS 60-6,184*

**§ 92.08 FALSE ALARM.**

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

(1977 Code, § 7-108) Penalty, see § 10.99

**Statutory reference:**

*False alarm in rural fire protection district, see Neb. RS 35-520*

*False reporting prohibited, see Neb. RS 28-907*

**FIRE PREVENTION**

**§ 92.20 FIRE LIMITS DEFINED.**

The following described territory in the municipality shall be and constitute the fire limits:

All of Blocks Five, Six, Seven, Eight, Nine, Ten, Eleven and Twelve all in the Original Town of Valentine, Nebraska.

(1977 Code, § 7-201)

**§ 92.21 MATERIALS.**

Within the fire limits set forth in § 92.20, no structure shall be built, altered, moved or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete or other such noncombustible materials as will satisfy the Fire Chief that the said structure will be reasonably fireproof.

(1977 Code, § 7-202) Penalty, see § 10.99

**Statutory reference:**

*Authority to regulate construction, see Neb. RS 17-550*

**§ 92.22 IRONCLADS PROHIBITED.**

All buildings, sheds and structures known as ironclads which are constructed of wood and covered with sheet iron or tin attached to the frame shall be considered and deemed to be constructed of combustible materials. Any future construction of an ironclad building shall hereafter be prohibited. (1977 Code, § 7-203)

**§ 92.23 FIRE PROHIBITED.**

Except as provided in § 92.24, it shall be unlawful for any person to set out a fire of any kind, at any time, within the municipality. (1977 Code, § 7-204)

**§ 92.24 OPEN BURNING BAN; EXCEPTIONS.**

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

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

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

(Neb. RS 81-520.01)

Penalty, see § 10.99

***Statutory reference:***

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

***POISONOUS AND FLAMMABLE GASES; EXPLOSIVES*****§ 92.40 POISONOUS AND FLAMMABLE GASES.**

Any person, firm or corporation desiring to store or keep in the municipality for any period of time any form of poisonous or flammable gas or liquefied petroleum gas or add to, enlarge or replace any facility used for the storage of such gases, must first get permission from the City Council. The City Council shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the City Council shall prescribe such rules, regulations and precautionary actions as they may deem necessary. Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of the ordinance enacting this section, provided that any such present use that is discontinued for a period of 60 days shall not be revived without a permit. The provisions of this section shall be controlling throughout the municipality and throughout its zoning jurisdiction.

(1977 Code, § 7-301) (Ord. 91-969M, passed 10-21-1991) Penalty, see § 10.99

***Statutory reference:***

*Authority to regulate, see Neb. RS 17-549*

*Authority throughout zoning jurisdiction, see Neb. RS 17-1001*

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



## CHAPTER 93: HEALTH AND SAFETY

Section

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## **GENERAL PROVISIONS**

### **§ 93.01 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. (1977 Code, § 4-101)

***Statutory reference:***

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

**§ 93.02 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.

(1977 Code, § 4-102)

***Statutory reference:***

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

**§ 93.03 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.

(1977 Code, § 4-103)

***GARBAGE DISPOSAL*****§ 93.15 DEFINITIONS.**

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

***GARBAGE.*** Kitchen refuse, decayed waste, dead animals or anything that may decompose and become offensive to the public health.

(1977 Code, § 4-201)

***RUBBISH*** or ***TRASH.*** Discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags or any other litter or debris that is not an immediate hazard to the health of the residents of the municipality.

(1977 Code, § 4-202)

***WASTE.*** Cinders, ashes, plaster, brick, stone, sawdust or sand.

(1977 Code, § 4-203)

**§ 93.16 TRASH AND WASTE.**

It shall be unlawful to:



(A) *Unlawful use of containers.* Deposit waste in any solid waste containers not owned by such person without the consent of the owner of such containers;

(B) *Interfere with collectors.* Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the city, or those off any other licensed waste' collection service;

(C) *Unlawful collection.* Engage in the business of collecting, transporting, processing or disposing of solid waste within the city without a license therefore from the city;

(D) *Incinerators.* Burn solid waste except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter;

(E) *Prohibited storage.* It is unlawful to accumulate or hoard solid waste of any kind. Furthermore, no person shall place any solid waste in any street, alley, road, highway or other public place, or upon any private property (whether owned by such person or not), within the city jurisdiction, except in proper containers for collection under this subchapter, or under express approval granted by the city. Nor shall any person throw or deposit any solid waste in any stream or other body of water;

(F) *Offensive or hazardous waste.* No person shall have waste on his or her property that is offensive or hazardous to the health or safety of others or which creates offensive odors or a condition of unsightliness;

(G) *Accumulation of waste.* Any accumulation of solid waste remaining on any premises for a period of more than 30 days shall be deemed a nuisance and in addition to any action for criminal sanctions, the city may proceed to abate such nuisances by initiating a civil action in District Court, or through such other means as the city ordinances may provide; and

(H) *Scavenging.* It shall be unlawful for any scavengers or unlicensed collectors to collect solid waste within the city's jurisdiction.

(Neb. RS 19-2106) (1977 Code, § 4-204) (Ord. 2003-2010SW, passed 6-30-2003) Penalty, see § 10.99

### **§ 93.17 USE OF CONSTRUCTION/DEMOLITION WASTE AS FILL PROHIBITED.**

(A) It shall be unlawful for any person to clear land, demolish buildings, roads or other structures and use the construction and demolition waste as fill within the city limits.

(B) Construction and demolition waste is defined and regulated by the Nebraska Department of Environmental Quality in Title 132, Integrated Solid Waste Management Regulations.

(Ord. 2012-2134W, passed 5-10-2012) Penalty, see § 10.99

*NUISANCES***§ 93.30 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.

(1977 Code, § 4-301)

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

(1) Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish or fowl;

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

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

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

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

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

(7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition 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.  
(1977 Code, § 4-302)  
Penalty, see § 10.99

**§ 93.31 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) (1) Upon determination by the Board of Health or designated official that the owner or

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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.

(2) 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 five 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 five 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 seven 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 two 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.

(1977 Code, § 4-303)

**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*

### § 93.32 JURISDICTION.

The City Manager and Police Department are directed to enforce this municipal code against all nuisances. The jurisdiction of the City Manager, Police Department and court shall extend to and the territorial application of this chapter shall include all territory adjacent to the limits of the municipality within one mile thereof and all territory within the corporate limits.

(1977 Code, § 4-304) (Ord. 88-937M, passed 4-18-1988)

**§ 93.33 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)

**§ 93.34 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) above 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.

**§ 93.35 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.

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(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-Treasurer. 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.) (toun), hemp plant (*Cannabis sativa*) and ragweed (*Ambrosiaceae*).  
(Neb. RS 17-563) Penalty, see § 10.99





## CHAPTER 94: PUBLIC WAYS AND PROPERTY

### Section

#### *City Property*

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- 94.002 Maintenance and control
- 94.003 Obstructions
- 94.004 Streets, alleys, walks, malls and other improvements
- 94.005 Regulation of snow, ice and other encroachments
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- 94.007 Excavations and exposures; barricades and lights
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### ***CITY PROPERTY***

#### **§ 94.001 DEFINITION.**

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.

#### **§ 94.002 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)

**§ 94.003 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)

**§ 94.004 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, regravell, 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 two or more connecting or intersecting streets, alleys or public ways, and may include two or more of the improvements in one 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) (1977 Code, § 8-311) (Ord. 651, passed 12-10-1979)

**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*

**§ 94.005 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) above, 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)

#### **§ 94.006 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 one-third 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

#### **§ 94.007 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.

#### **§ 94.008 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 two 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 § 93.31. Penalty, see § 10.99

**§ 94.009 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 § 93.31.

(D) All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.  
(1977 Code, § 2-216) (Ord. 91-974M, passed 12-16-1991)  
Penalty, see § 10.99

**§ 94.010 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-Treasurer, 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 § 93.31.

Penalty, see § 10.99

#### **§ 94.011 IMPROVEMENT DISTRICT.**

(A) The municipality's governing body may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing or repairing an existing street, alley, water line, sewer line or any other such improvement.

(B) Except as provided in Neb. RS 19-2428 to 19-2431, the governing body shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefitted thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the governing body shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law.

(Neb. RS 18-1751) (1997 Code, § 8-108)

(C) Supplemental to any existing law on the subject, a municipality may include land adjacent to such municipality when creating an improvement district, such as a sewer, paving, water, water extension or sanitary sewer extension district. The governing body shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby, except as provided in § 94.080.

(Neb. RS 19-2427) (1977 Code, § 8-109)

(Ord. 87-931M, passed 10-19-1987; Ord. 87-932M, passed 10-19-1987)

#### **§ 94.012 FENCE, WELL OR HEDGE; ENCROACHMENTS.**

(A) No fence, wall or hedge shall be erected, placed, maintained or grown within a public right-of-way except by permit granted pursuant to division (B) below.

(1977 Code, § 8-110)

(B) No person shall construct, place or maintain a fence, wall or hedge which encroaches into the public street right-of-way without first obtaining a permit in the form of an easement issued by the City Manager. Application for such easement shall be filed with the City Clerk-Treasurer or his or her designated agent, on a building permit application, providing a site plan for the location of any proposed encroachment into the public street right-of-way.

(1) An easement shall be granted if the City Manager shall determine as follows:

(a) That the encroachment shall not be hazardous to or interfere with vehicle or pedestrian traffic on the street, alley or sidewalk;

(b) That the encroachment shall not hinder vision in the vicinity of an intersection of two streets;

(c) That the encroachment will not interfere with the operation and maintenance of the public utilities located within the public street right-of-way; and

(d) That the encroachment will be subject to the express condition that said encroachment shall be removed upon 30-day written notice that the area of the encroachment is in is necessary for public improvements or maintenance or repairs of such improvements, and that the property owner will indemnify, protect and hold the city harmless from and against any claims and demands for damages arising from the construction or maintenance of the encroachment.

(2) In the event that the City Manager refuses to grant the easement, the application may be presented to the City Council for final determination.

(1977 Code, § 8-111)

(Ord. 95-1000, passed 8-21-1995)

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

**§ 94.025 SALE AND CONVEYANCE; REAL PROPERTY.**

(A) Except as provided in division (G) below, 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) above and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the city.

**Valentine - General Regulations**

(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 one 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 one 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 one 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) above 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 three prominent places within the city for a period of not less than seven 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)

**§ 94.026 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 three prominent places within the city for a period of not less than seven 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 seven 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) above 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)

**§ 94.027 ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN**

**REQUIRED.**

(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) below, 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) below, 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 one 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) above 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 § 94.029. (Neb. RS 17-953.01)

(D) (1) The City Council adopting the proposition to make such purchase or erect such building or buildings for the purposes set forth in division (A) above 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) above, and the question of the issuance of the negotiable bonds referred to in this division (D)(1) may be submitted as one 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 three 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 six 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)

**§ 94.028 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)

**§ 94.029 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING.**

(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)

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

**Valentine - General Regulations**

(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) above 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) above regulating the practice of engineering do not apply to the following activities, the activities specified in division (B) above, 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)

**§ 94.031 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-Treasurer 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-Treasurer 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-Treasurer 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***§ 94.045 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 five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 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

**§ 94.046 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

**§ 94.047 DANGEROUS STAIRWAY.**

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.

Penalty, see § 10.99

**§ 94.048 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-Treasurer. 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.

**§ 94.049 CONSTRUCTION AT MUNICIPAL DIRECTION.**

(A) (1) The City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the 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 ten 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 City Council, after having received due notice to do so, the 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 four 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*

**§ 94.050 SIDEWALK USE.**

(A) *Permit and application.* No record owner of business property located within the central business, light industrial and/or commercial highway zoning areas shall be allowed to use the sidewalk space lying between the lots line and curb line unless a permit therefore shall have been obtained from the governing body. Before any permit shall be granted, the applicant for said permit shall submit to the City Clerk-Treasurer, the following:

(1) Application, upon a form to be furnished by the city, which shall include a hold harmless agreement and an application fee of \$50;

(2) Plat or drawing of the proposed use, to scale, showing the amount of surface public right-of-way you are seeking permission to use and the location of all furniture, equipment and any other articles occupying public space, if any; and

(3) Certificate of insurance: public liability insurance in the form of a commercial comprehensive general liability policy with a minimum combined single limit of \$500,000 aggregate for any one occurrence, naming the city as an additional insured, 30-day cancellation notice.

(B) *Review and recommendation.* The City Clerk-Treasurer shall forward the application and above materials to the City Manager for his or her review. The City Manager shall consider the application and supporting materials in regard to the design relationship of the application to the streetscape, the amount of pedestrian movement to be accommodated, the amount of clear unobstructed passageway for pedestrian traffic and the appropriateness of the use of the area to receive a permit. If the City Manager recommends approval, the City Clerk-Treasurer shall grant the permit. If the City Manager recommends conditional approval and the applicant consents to the conditions of approval in writing, the City Clerk-Treasurer shall grant the permit upon compliance with the conditions. If the applicant does not consent to the additional conditions of approval or the City Manager recommends disapproval of the application, the City Clerk-Treasurer shall place such sidewalk use permit request on the Council agenda for the Council's decision.



(C) *Permit conditions.* The use to be made of such space shall be in conformance with the municipal code and any applicable standards adopted by resolution of the City Council. Such space shall only be used for the activity or activities specified on the permit in accordance with the requirements of these or any other applicable laws. Such use is temporary and the user acquires no right, title or interest in the space permitted to be used. The city may require such space to be vacated, restored to its prior condition upon demand, and its use discontinued, with no recourse against the city for any loss or damage occasioned by any such requirement. If such space is not vacated and restored to its prior condition and such use is not discontinued by the time specified, the city may remove from such space any property left thereon at the risk and expense of the permittee and restore such space to its prior condition at the expense of permittee. Permittee shall at all times comply with all health, food, liquor and sanitation and the Nebraska Department of Road laws. Permittee shall promptly remove any litter deposited on or in the vicinity of the surface space used by permittee and permittee shall at all times conduct such activity or activities in an orderly fashion and in such a manner as to protect the public health and safety. Such space shall be used for business purposes only during the hours specified on the permit authorizing such use and not before nor after such hours.

(D) *Suspension or revocation.* Any permit issued pursuant to this section may be suspended or revoked by the City Manager, after notice for any of the following causes:

- (1) Fraud, misrepresentation, false statement contained in the application for the license;
- (2) Violation of this section or any of the provisions of the municipal code;
- (3) Conduct of the business licensed under this section in an unlawful manner or in such a way as to constitute a menace to the health or safety of the public; and
- (4) Upon demand of the City Council.

(E) *Renewal and termination of permits.* All permits shall be due and payable on May 1 of each year and all permits shall expire on April 30 following issuance. After the initial approval of a permit by the City Clerk-Treasurer for a specific location, annual renewals of such permits may be made for one year by application to the City Clerk-Treasurer.

(F) *Bond.* If the city determines that the use requested is different from the regular and normal use of the surface space, the city may require as a condition of granting such permit, the providing of a surety bond to guarantee the removal of the applicant's personal property and restoration of the surface space to its prior condition.

(Ord. 2006-2056M, passed 8-21-2006)

### ***STREETS AND ALLEYS***

#### **§ 94.065 OPENING, WIDENING, IMPROVING OR VACATING.**

**Valentine - General Regulations**

(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, one-half 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 one 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)

**§ 94.066 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 two-thirds of the City Council.  
(Neb. RS 17-508)

**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*

**§ 94.067 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 one continuous paved street, but the portion to be so improved shall not exceed two 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 one 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 one 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 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)

**§ 94.068 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-Treasurer, the City Clerk-Treasurer 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.

**§ 94.069 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

#### **§ 94.070 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 Overseer of Streets. Before any person obtains a permit, he or she shall inform the City Clerk-Treasurer 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 Manager. 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 Overseer of Streets, the applicant for the permit shall deposit with the City Clerk-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.

Penalty, see § 10.99

#### **§ 94.071 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-Treasurer 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

**§ 94.072 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

**§ 94.073 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

**§ 94.074 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

**§ 94.075 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

**§ 94.076 EAVE AND GUTTER 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.  
Penalty, see § 10.99

**§ 94.077 HEAVY EQUIPMENT; SPECIAL TIRES.**

(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.

Penalty, see § 10.99

**§ 94.078 PIPE LINES AND WIRES.**

(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-Treasurer 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.

**§ 94.079 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*

**§ 94.080 DEFERRAL FROM SPECIAL ASSESSMENTS.**

(A) Whenever the governing body of a municipality creates an improvement district as specified in § 94.011 which includes land adjacent to the municipality which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms agricultural use and agricultural use zone shall have the meaning specified in Neb. RS 77-1343.

(B) (1) Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the governing body of the municipality within 90 days after creation of an improvement district as specified in § 94.013. Any owner of record title who makes application for the deferral provided by this section shall notify the County Register of Deeds of such application in writing prior to approval by the governing body.

(2) The governing body shall approve the application of any owner of record title upon determination that the property:

- (a) Is within an agricultural use zone and is used exclusively for agricultural use; and
- (b) The owner has met the requirements of this section.

(C) The deferral provided for in this section shall be terminated upon any of the following events:

- (1) Notification by the owner of record title to the governing body to remove such deferral;
- (2) Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in division (C)(3) below;
- (3) Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
- (4) The land is no longer being used as agricultural land; or
- (5) Change of zoning to other than an agricultural zone.

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(D) Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the municipality an amount equal to:

(1) The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and

(2) Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

(E) In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in division (C)(2) or (C)(3) above the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

(Neb. RS 19-2428 through 19-2431) (1977 Code, § 8-312) (Ord. 87-933M, passed 10-19-1987)





## CHAPTER 95: ANIMALS

Section

### *General Provisions*

- 95.01 Animals banned from the municipality
- 95.02 Fowl banned from the municipality

### *Dogs*

- 95.15 Rabies vaccination
- 95.16 Owner defined
- 95.17 Proclamation
- 95.18 Running at large
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- 95.24 Dogs fighting
- 95.25 Liability of owner
- 95.26 Impounding
- 95.27 Officer's compensation

### **GENERAL PROVISIONS**

#### **§ 95.01 ANIMALS BANNED FROM THE MUNICIPALITY.**

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock. Any person keeping or maintaining any livestock at the time of the adoption of this section shall be permitted to continue; but no such keeping or maintaining shall be resumed if the same shall have been discontinued for a period of 90 days or more.

(Neb. RS 17-547) (1977 Code, § 6-201) Penalty, see § 10.99

**§ 95.02 FOWL BANNED FROM THE MUNICIPALITY.**

It shall be unlawful for any person to keep on their private property within the municipality poultry, chickens, turkeys, geese or other fowls. Any person keeping any fowl at the time of the adoption of this section shall be permitted to continue; but no such keeping shall be resumed if the same shall have been discontinued for a period of 90 days or more.

(1977 Code, § 6-202) Penalty, see § 10.99

***DOGS*****§ 95.15 RABIES VACCINATION.**

(A) *Required; payment of costs.* All dogs over four months of age must be vaccinated against rabies. Young dogs shall be vaccinated within 30 days after they have reached four months of age. Unvaccinated dogs acquired or moved into the city must be vaccinated within 30 days after arrival or purchase, unless under four months of age as specified in this division (A). Each dog shall be revaccinated following a period of not more than 36 months since its last vaccination. The cost of the rabies vaccination shall be borne by the owner of the dog.

(B) *Issuance of certificate of vaccination and tag.*

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

- (a) The owner's name and address;
- (b) A description of the dog, including the breed, sex, markings, age and name;
- (c) The date of vaccination;
- (d) The rabies vaccination tag number;
- (e) The type of rabies vaccine administered; and
- (f) The manufacturer's serial number of the vaccine.

(2) The veterinarian shall issue a tag with the certificate of vaccination.

(C) *Exceptions.* The provisions of division (A) above with respect to vaccination shall not apply to any nonresident owner or keeper of a dog while the nonresident is passing through the city, provided that the dog shall remain on leash or otherwise physically restrained as provided for elsewhere in this chapter.

(D) *Possession of certificate of vaccination; wearing of collar and tag.* The owner or keeper of a dog shall keep in his or her possession the certificate of rabies vaccination as proof of the vaccination.

Further, the tag of rabies vaccination shall be attached to the harness or collar of the dog at all times. No person shall remove, or cause to be removed, the collar, harness or rabies tag from any dog without the consent of the owner or keeper.

(E) *Impoundment of animals without proof of vaccination.* Any dog found outside the owner's or keeper's premises whose owner does not possess a valid certificate of rabies vaccination and a valid rabies vaccination tag for such dog shall be impounded. Any unvaccinated dog may be reclaimed by its owner during the period of impoundment by payment of the prescribed impoundment fees and by complying with the rabies vaccination requirements within 72 hours of release. Any vaccinated dog impounded because its owner has not presented a valid certificate of rabies vaccination and a valid rabies vaccination tag for such dog may be reclaimed by its owner by furnishing proof of rabies vaccination and payment of all impoundment fees prior to release.

(F) *Violations; penalty.* It shall be unlawful for any person to fail to have his or her dog vaccinated for rabies as required by this section, to fail to affix or attach the valid rabies vaccination tag to the animal's collar or harness, to fail to possess and present proof of valid and current rabies vaccination or to violate any of the provisions or requirements of this section. Failure of an owner of a dog to present to an officer, upon demand, the valid rabies vaccination certificate and valid rabies vaccination tag shall constitute prima facie evidence in the appropriate court of law that the dog is not properly vaccinated and that the requirements and provisions of this section have been violated. Any person found to have violated this section shall be punished as provided for in § 10.99.

(1977 Code, § 6-101) (Ord. 2012-2132M, passed 4-12-2012) Penalty, see § 10.99

#### § 95.16 OWNER DEFINED.

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

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

(Neb. RS 54-606, 71-4401) (1977 Code, § 6-104)

#### § 95.17 PROCLAMATION.

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.

(1977 Code, § 6-105) Penalty, see § 10.99

**§ 95.18 RUNNING AT LARGE.**

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the municipality. It shall be the duty of the city police to cause any dog found to be running at large within the municipality to be taken up and impounded. ***RUNNING AT LARGE*** shall mean any dog found off the premises of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. (1977 Code, § 6-106) Penalty, see § 10.99

**§ 95.19 CAPTURE IMPOSSIBLE.**

The city police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved. (Neb. RS 54-605) (1977 Code, § 6-107)

**§ 95.20 VICIOUS DOGS.**

It shall be unlawful for any person to own, keep or harbor any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite, without the said dog being securely held by a chain not over six feet long. If any vicious or dangerous dog is otherwise held, confined or allowed to run at large, the municipal police shall have the authority to put the dog to death. (1977 Code, § 6-108) Penalty, see § 10.99

**§ 95.21 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. (Neb. RS 28-906) (1977 Code, § 6-109) Penalty, see § 10.99

**§ 95.22 KILLING AND POISONING.**

It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim or destroy, or in any manner attempt to injure, maim or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog; provided, that this section shall not apply to municipal police officers acting within their power and duty. (Neb. RS 28-1002) (1977 Code, § 6-110) Penalty, see § 10.99

**§ 95.23 BARKING AND OFFENSIVE DOGS.**

(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 two or more affected persons from different households, filed within any 30-day period with the City Clerk-Treasurer 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.  
(1977 Code, § 6-111) Penalty, see § 10.99

***Statutory reference:***

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

**§ 95.24 DOGS FIGHTING.**

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight.

(Neb. RS 17-526) (1977 Code, § 6-112) Penalty, see § 10.99

**§ 95.25 LIABILITY OF OWNER.**

(A) 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.

(B) 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.

(1977 Code, § 6-113) 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*

**§ 95.26 IMPOUNDING.**

(A) It shall be the duty of the municipal police to capture, secure and remove in a humane manner to the municipal animal shelter any dog violating any of the provisions of this chapter. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of

not less than five days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk-Treasurer within 24 hours after impoundment as public notification of such impoundment.

(B) Any dog may be reclaimed by its owner during the period of impoundment by payment of a fee, which fees are adopted by reference in this code. A copy of the ordinance which sets out the fees can be found in the office of the City Clerk-Treasurer.

(C) (1) The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. If the dog is not claimed at the end of required waiting period after public notice has been given, the veterinarian designated by the City Manager may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, that if, in the judgment of the municipal police, a suitable home can be found for any such dog within the municipality, the said dog shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this chapter.

(2) The municipality shall acquire legal title to any unlicensed dog impounded in the animal shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog.

(Neb. RS 17-548, 71-4408) (1977 Code, § 6-115) (Ord. 81-877, passed 9-14-1981)

## **§ 95.27 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.

(1977 Code, § 6-116)

***Statutory reference:***

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

