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CHAPTER 90: PARKS AND RECREATION

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§ 90.01 GROUNDS DEPARTMENT.

(A) The Grounds Department is responsible for maintenance of all parks and recreation areas in or owned by the city. The Grounds Superintendent is the head of the Grounds Department. All personnel of the Department will report to and work under the supervision of the Grounds Superintendent.

(B) The Grounds Superintendent shall be appointed by the Mayor with the consent of the City Council and may be removed by the Mayor.

(C) The Grounds Superintendent shall have general supervision of all parks and recreation areas in or owned by the city, including maintaining and managing the grounds of the golf course. The specific duties, terms and conditions of employment shall be established by resolution of the City Council. (Prior Code, § 1-9-1) (Ord. 667, passed 1-13-2004)

§ 90.02 GOLF COURSE DEPARTMENT.

(A) The Golf Course Department is responsible for operation of the clubhouse and all golfing activities. The Golf Course/Clubhouse Manager is the head of the Golf Course Department. All personnel of the Golf Course Department will report to and work under the supervision of the Golf Course/Clubhouse Manager.

(B) The Golf Course/Clubhouse Manager shall be appointed by the Mayor with the consent of the City Council and may be removed by the Mayor.

(C) The Golf Course/Clubhouse Manager shall have general supervision of the golf course, clubhouse and equipment owned and operated by the city. The specific duties, terms and conditions of employment shall be established by resolution of the City Council. (Prior Code, § 1-9-2) (Ord. 667, passed 1-13-2004)

§ 90.03 SWIMMING POOL PROVISIONS.

(A) *Swimming Pool Department.* The Swimming Pool Department is responsible for operation of the city swimming pool and swimming education and safety programs operated by the city. The Swimming Pool Manager is the head of the Department, and shall be appointed annually by the Mayor with the consent of the Council. All personnel of the Department will report to the Manager and work under the supervision of the Manager. The Department includes all personnel employed in operation of the swimming pool and in the swimming programs.

(Prior Code, § 1-13-1)

(B) *Swimming Pool Manager.* The position of part-time Swimming Pool Manager is hereby created. The Swimming Pool Manager shall be appointed by the Mayor with the consent of the City Council and may be removed by the Mayor. The Swimming Pool Manager shall have general supervision of the swimming pool and pool equipment owned and operated by the city. The specific duties, terms and conditions of employment shall be established by resolution of the City Council.

(Prior Code, § 1-13-2)

(Ord. 572, passed 3-31-1997; Ord. 597, passed 3-10-1998)

CHAPTER 91: ANIMAL CONTROL

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DOMESTIC ANIMALS

§ 91.01 DEFINITIONS.

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

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ANIMAL. A domesticated living creature (including a dog or cat) and a wild living creature previously captured.

CAT. Any animal of the species *Felis domesticus*.

DOG. Any canine animal, male or female, sexed or neutered.

DOMESTIC ANIMAL. A dog, cat or other animal which is not a “wild animal” as defined in this section.

DOMESTIC ANIMAL RUNNING AT LARGE. A domestic animal which has left the property of its owner without being restrained by a proper leash and in the custody of the owner or other responsible person.

OWN.

(1) Unless otherwise specified, to possess, keep, harbor or have control of, charge of or custody of a domestic animal within the corporate limits of the city.

(2) The term shall not apply to domestic animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than 30 days.

OWNER.

(1) Any person possessing, keeping, harboring or having charge or control of, or permitting any domestic animal to habitually be or remain on, or be lodged or fed within, the person’s house, yard or premises.

(2) This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic animals owned by other persons for a period of not more than 30 days.

WILD ANIMAL OR BIRDS. Any crows, game animals, fur-bearing animals, game birds and upland game birds, as defined in Neb. RS 37-101, as amended, to include any successor provision to that statute; any wolf, skunk or any member of the families *Felidae* and *Ursidae*, except the species *Felis domesticus*; any venomous reptiles and snakes; any African rock pythons, anacondas, reticulated pythons or Burmese pythons; any member of the family *crocodylidae* or *alligatoridae*; any nonhuman members of the family *primata*; any nongame wildlife in need of conservation as determined by the Nebraska game and parks commission; and any wildlife determined to be an endangered or threatened species under the Federal Endangered Species Act of 1973, being 16 U.S.C. 1531 through 1544, or any later act or amendment to the act.

(Prior Code, § 6-3-1) (Ord. 560, passed 7-9-1996)

§ 91.02 LICENSE REQUIRED.

It shall be unlawful for any resident to own, harbor, keep or possess a domestic animal within the corporate limits of the city without first procuring a license as provided by this chapter; provided, however, that the provisions of this chapter shall not apply to any person visiting in the city for a period of not exceeding 30 days and owning or possessing a domestic animal currently licensed and bearing a license issued by another municipality or another licensing authority.

(Prior Code, § 6-3-2) (Ord. 560, passed 7-9-1996) Penalty, see § 10.99

§ 91.03 LICENSE APPLICATION.

(A) The owner of, or person having any domestic animal in charge shall make application to the Clerk and provide the information as may be required which shall include the type of animal, the sex, the coloring and the name of the domestic animal.

(B) If the domestic animal is a spayed female, a statement of a licensed veterinarian verifying that fact must accompany the application.

(Prior Code, § 6-3-3) (Ord. 560, passed 7-9-1996)

§ 91.04 LICENSE FEES.

Applications for domestic animal licenses must be accompanied by fees which shall be established by resolution of the City Council.

(Prior Code, § 6-3-4) (Ord. 690, passed 7-11-2006; Ord. 720, passed 9-8-2009)

§ 91.05 LICENSE ISSUANCE.

(A) (1) All domestic animal licenses shall be issued beginning January 1 and expiring December 31. Upon receipt of an application and payment of the required fees, the Clerk shall issue a receipt designating the owner's name, the number of the license to be issued and the amount paid.

(2) At the same time the Clerk shall issue a metal tag bearing the number corresponding to the number on the receipt and the tag shall be known as the license.

(B) No domestic animal shall be licensed as provided in this section unless the owner or applicant therefor shall first provide satisfactory proof from the office of a veterinary surgeon, who is licensed and practicing in this state, to the effect that the domestic animal has been vaccinated for rabies and that the vaccine is regarded by the veterinary surgeon to be effective throughout the full licensing period sought by the applicant.

(Prior Code, § 6-3-5) (Ord. 560, passed 7-9-1996)

§ 91.06 COLLAR; TAG.

Every domestic animal shall at all times wear a substantial, durable collar to which the required license shall be securely attached.

(Prior Code, § 6-3-6) (Ord. 560, passed 7-9-1996)

§ 91.07 FALSE STATEMENTS.

It shall be unlawful for any person to make a false statement or to falsely represent any facts in any application for a domestic animal license.

(Prior Code, § 6-3-7) (Ord. 560, passed 7-9-1996) Penalty see § 10.99

§ 91.08 IMITATION LICENSE TAGS PROHIBITED.

It shall be unlawful for any person to allow any domestic animal owned, kept or harbored by him or her to wear a license tag received on account of a former license, or to wear any imitation of the license tag issued by the city for that year, or any tag marked on plate or collar similar to that required by the city at that time, and calculated to deceive, and it shall be unlawful for any person to allow any female domestic animal owned by him or her or within his or her care or custody to wear a tag issued with a license for a male domestic animal.

(Prior Code, § 6-3-9) (Ord. 560, passed 7-9-1996) Penalty, see § 10.99

§ 91.09 POUND MASTER.

The Mayor may appoint a pound master and give him or her the authority of a police officer under the supervision of the Chief of Police, to be responsible for the enforcement of all domestic animal regulations as well as other stray animals. He or she shall operate the domestic animal and stray pound and pound fees collected by him or her shall be turned over to the Treasurer. In the absence of the appointment, the Chief of Police shall serve as pound master.

(Prior Code, § 6-3-10) (Ord. 560, passed 7-9-1996)

§ 91.10 RABIES.

(A) The pound master shall have authority to order the owner of any domestic animal showing symptoms of rabies or of any domestic animal which has bitten any person so as to cause an abrasion of the skin, to subject the domestic animal to the city pound for quarantine for a period of not to exceed 15 days, and if the domestic animal shall be determined free of rabies the same shall be returned to the owner upon payment of one-half the regular fee for keeping domestic animals impounded.

(B) No other fee shall be charged. If the fee is not paid the domestic animal shall be subject to disposal as provided hereinafter. Provided, however, that in lieu of submitting the domestic animal to the city pound, the owner may, at his or her expense, submit the domestic animal to a veterinarian for examination and impoundment for 15 days. Any domestic animal afflicted with rabies shall be disposed of immediately, either by the owner or by the pound master.
(Prior Code, § 6-3-11) (Ord. 560, passed 7-9-1996)

§ 91.11 IMPOUNDING; RELEASE.

(A) It shall be the duty of the Chief of Police or other officer authorized by the Mayor and Council to cause to be captured and impounded in the city pound or some other appropriate place all domestic animals found running at large within the city.

(B) Upon the capture and impounding of any domestic animal, it shall be the duty of the Chief of Police to notify the owner thereof, if the owner can be ascertained, which notice shall advise of the fact of the capture and the date of impounding and the amount of license tax due and penalty due thereon; and that, in case the tax and penalty are not paid within five days after service of the notice; the domestic animal impounded shall be disposed of as provided in this chapter.

(C) In case the owner cannot be ascertained, a notice containing a description of the domestic animal taken, the date of impounding and the amount of license tax and penalty due thereon shall be posted in the office of the City Clerk, which notice shall advise all whom it may concern that in case the tax due upon the animal and the penalty due are not paid within five days from the date of posting of the notice, the domestic animal will be disposed of as provided in this chapter.

(D) In case payment is made of the license, tax and penalty, the owner of the domestic animal taken and impounded under this chapter, shall be entitled to delivery of the domestic animal.

(E) In case it is shown that a license tax for the current year has, in fact, been paid upon any domestic animal, though it has no tags; the domestic animal upon proof of the fact shall be delivered to its owner; provided, the owner secures a tag for the domestic animal and affixes the tag to a collar worn by the domestic animal.

(F) The owner of any domestic animal so impounded shall also be required to pay an impound fee as set by Council resolution.

(G) If a dog is determined to be a dangerous dog under the provisions of Neb. RS. 54-617 et seq, a dog shall be impounded for ten days. The owner of the dog may choose whether their animal is impounded at the Panhandle Humane Society or at a veterinary clinic of their choosing. All costs associated with impounding and care of the dog, wherever it is impounded, shall be the responsibility of the owner.

(Prior Code, § 6-3-12) (Ord. 560, passed 7-9-1996; Ord. 747, passed 11-13-2012)

§ 91.12 DISPOSAL OF DOMESTIC ANIMALS.

(A) For purposes of this chapter, disposal of domestic animals shall be accomplished in the following manner:

- (1) Delivery of the domestic animal to the person who shall pay the license tax, penalty and impounding expenses;
- (2) Destroying the domestic animal in a humane manner; and/or
- (3) Transportation of the domestic animal to the Scottsbluff Humane Society so long as the Scottsbluff Humane Society agrees to accept impounded domestic animals.

(B) If division (A)(1) above is not exercised, it will be the election of the Chief of Police or his or her designated officer to transport the domestic animal to the Humane Society or destroy the domestic animal in a humane manner.

(Prior Code, § 6-3-13) (Ord. 560, passed 7-9-1996)

§ 91.13 DOMESTIC ANIMALS AT LARGE.

(A) If the owner of any domestic animal permits the same to run at large in the city, the owner thereof shall be deemed guilty of a misdemeanor.

(B) The Chief of Police or other officer designated by the Mayor and Council is hereby authorized to destroy any domestic animal running at large within the corporate limits of the city which is vicious or dangerous to any person in the city or injures any person in the city.

(C) The prudent use of firearms by the Chief of Police or any other the officer for this purpose or for any purpose required in this chapter shall not be deemed a violation of the provisions of this code.

(Prior Code, § 6-3-14) (Ord. 560, passed 7-9-1996) Penalty, see § 10.99

§ 91.14 HINDERING OR INTERFERING WITH OFFICER.

It shall be unlawful for any person to hinder or molest any person who may be engaged in the seizing or killing of any domestic animal within the city limits, when the person is authorized to do so under the provisions of this chapter.

(Prior Code, § 6-3-15) (Ord. 560, passed 7-9-1996) Penalty, see § 10.99

§ 91.15 BARKING DOGS; DISTURBING THE PEACE.

It shall be unlawful for any person to harbor within the corporate limits of the city, a dog that barks continuously or repeatedly to the disturbance of the peace of the neighborhood or adjoining property owners.

(Prior Code, § 6-3-16) (Ord. 658, passed 6-10-2003) Penalty, see § 10.99

§ 91.16 DISPOSAL OF FECES.

It shall be unlawful for the owner or person having control of any domestic animal to fail to remove and sanitarly dispose of feces or other defecation deposited by the animal on any public park, street, alley, sidewalk or other public property or on any private property other than that of the owner of the animal.

(Prior Code, § 6-3-17) (Ord. 688, passed 8-8-2006) Penalty, see § 10.99

§ 91.17 NUMBER OF DOGS AND CATS MAINTAINED ON ANY PROPERTY.

(A) The City Council hereby makes a finding that the harboring of domestic animals as defined in § 91.20 above of this chapter that exceeds three domestic animals is contrary to the general health and well being of the citizens of the city.

(B) Having more than three dogs, cats or a combination of dogs and cats creates situations where the peace and welfare of the citizens of the city will be disturbed by the behavior of the domestic animals.

(C) To the extent that any citizens or occupants of the city have more than three domestic animals on their property that are unlicensed on the passage date of this section that no grandfathering provisions of any law shall apply to the retention of more than three domestic animals at the passage date of this section.

(Prior Code, § 6-3-19) (Ord. 701, passed 10-16-2007) Penalty, see § 10.99

§ 91.18 DOMESTIC ANIMALS; NUMBERS.

It shall be unlawful for any person to harbor within the corporate limits of the city more than three domestic animals. This provision shall not apply to the offspring of domestic animals for a period of 90 days from the date of the birth of any litter of puppies or kittens. In addition to a violation of this section, the harboring of more than three domestic animals shall be considered a kennel. Kennels are prohibited in any residential district of the city. The harboring of more than three domestic animals is hereby declared to be a public nuisance.

(Prior Code, § 6-3-20) (Ord. 701, passed 10-16-2007) Penalty, see § 10.99

§ 91.19 DECLARATION OF PUBLIC NUISANCE; IMPOUNDMENT.

Any domestic animal that is in violation of any provisions of this code is declared to be a public nuisance. If a public nuisance is deemed to exist, the domestic animal may be impounded and disposed of pursuant to this code.

(Prior Code, § 6-3-21) (Ord. 701, passed 10-16-2007) Penalty, see § 10.99

§ 91.20 ENFORCEMENT INJUNCTION; APPEAL.

If any domestic animal is impounded by the city for violations of the provisions of this code, notice shall be provided to the owner, if the owner can be identified. The owner shall have the right to appeal the impoundment and disposition order to the City Council. The appeal to the City Council must be filed with the City Clerk within seven days of service of the notice of the impoundment and disposition order upon the owner of the domestic animal if the owner can be identified. If notice of appeal is received, the matter shall be considered at the next City Council meeting.

(Prior Code, § 6-3-22) (Ord. 701, passed 10-16-2007)

§ 91.21 DANGEROUS DOGS MAINTAINED NEAR DAY CARES AND SCHOOLS.

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

DANGEROUS DOG.

(a) A dog that according to the records of an animal control authority:

1. Has killed a human being;
2. Has inflicted injury on a human being that requires medical treatment;
3. Has killed a domestic animal without provocation;
4. Has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice from an animal control authority or an animal control officer of the city; and
5. The dog inflicts an injury on a human being that does not require medical treatment, injured a domestic animal, or threatens the safety of humans or domestic animals.

(b) Notwithstanding the foregoing, a dog shall not be defined as a dangerous dog:

1. If an individual is tormenting, abusing or assaulting a dog at the time of the injury or has, in the past, been observed or reported to have tormented, abused or assaulted the dog;
2. If the dog is a trained dog assisting a police officer engaged in law enforcement duties; or
3. If the injury, damage or threat was sustained who, at the time, was committing a willful trespass as defined in state statutes or was committing any other toward on the property of the owner of the dog or was tormenting, abusing or assaulting the dog or has in the past been observed or reported to have tormented, abused or assaulted the dog or was committing or attempting to commit a crime.

DOMESTIC ANIMAL. A cat, dog, or livestock.

MEDICAL TREATMENT. Treatment administered by a physician or other licensed healthcare professional that results in sutures or surgery, or treatment of one or more broken bones.

MICROCHIP or MICROCHIPPED. The device or implantation of the device, authorized by, and generally accepted by, the veterinary community, to be permanently implanted in the dog, allowing for permanent identification of the dog and the dog's owner, via scanning and reading of the microchip through the dog's skin, hair or fur.

OWNER. Any person, firm, corporation, organization, political subdivision or department processing, harboring, keeping or having control of custody of the dog.

POTENTIALLY DANGEROUS DOG.

- a. Any dog that when unprovoked inflicts an injury on a human being that does not require medical treatment;
- b. Injures a domestic animal;
- c. Chases or approaches a person upon streets, sidewalks or public grounds in a menacing fashion or apparent attitude of attack; or
- d. Any specific dog with known propensity, tendency or disposition to attack when unprovoked, or to cause injury, or to threaten the safety of humans or domestic animals.

(B) Identification by city; notice; procedure to dispute.

(1) A determination that a specific dog is a potentially dangerous dog shall be made by the Chief of Police who is principally charged with the responsibility of filing complaints against persons

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charged with the violation of any ordinance of the city. The owner of the dog shall be given written notice of such determination. Such written notice shall inform the owner that if the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals the city may determine the dog to be a dangerous dog and require it to be restrained as provided in this Code of Ordinances.

(2) The city may, in its discretion, may determine that any dog which satisfies the definition of a dangerous dog as defined elsewhere in this section, or any dog which has been determined to be potentially dangerous and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals is a dangerous dog. Such determination shall be made by the Chief of Police who is principally charged with the responsibility of filing complaints against persons charged with the violation of any ordinance of the city. The owner of the dog shall be given written notice of such determination. The notice shall be in writing and shall inform the owner:

(a) That the dog has been determined to be dangerous;

(b) That such dog is required to be restrained and confined as described in this section;

(c) That if the owner disputes the identification of the dog as a dangerous dog, he or she may submit a written request for a hearing to the City Council within five working days after receipt of the written notification;

(d) That if no such hearing is requested that the identification of the dog as a dangerous dog shall be final and not subject to further review.

(3) The timely request for a hearing under this section shall stay the determination of the dog as a dangerous dog until a final decision is made by the City Council. The hearing shall be held before the City Council. The burden of going forward with the evidence shall be on the city to demonstrate that the dog meets one of the criteria defined in this section. After such hearing the City Council shall have the authority to affirm, reverse or modify the identification of the dog as a dangerous dog. The failure of the owner to request such a hearing shall result in the dog being declared a dangerous dog.

(C) *Restraint required.* No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.

(D) *Confinement required; warning signs.* While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also

protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property.

(E) *Microchip.* The owner, must as soon as reasonably possible, but no later than 14 days after the designation or confirmation of the dangerous dog designation, have the dog microchipped with an approved device, as defined by this section. If the dog has been seized or impounded, the owner must arrange for the dog to be microchipped before or at the time of release from custody of animal control officer. The name of the microchip manufacturer and identification number of the microchip must be provided to the animal control authority. If the microchip is not implanted by the owner, it may be implanted by the Panhandle Humane Society or a qualified veterinarian under the direction of the Panhandle Humane Society or the animal control officer. In any case, all costs related to implantation of the microchip must be borne by the dog's owner and must be paid before the dog shall be released from impound.

(F) *Prohibited acts.* No person shall:

(1) Own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging that dog to unprovoked attacks upon human beings or domestic animals;

(2) Possess with intent to sell, offer for sale, breed, or buy or attempt to buy, within the city any dangerous dog.

(G) *Confiscation; when; costs.* Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this section. Any dangerous dog may also be confiscated if, within two weeks immediately preceding the date of confiscation, it was observed in a condition when it was not properly confined or restrained as provided in this section. The owner shall be responsible for the reasonable costs incurred by the city for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the city is pursuant to law and if the owner violated this section. Any such dog shall be retained by the city pending the order of an appropriate court.

(H) *Disposal by court order.* In addition to any other penalty, a court may order the city to dispose of a dangerous dog in an expeditious and humane manner.

(I) *Incorporation of state statutes.* To the extent, not inconsistent with these provisions concerning dangerous dogs, the provisions of Neb. RS 54-617 through 54-624 are incorporated herein by reference. With the intent that pursuant to Neb. RS 54-624, the city is establishing and enforcing the laws through this section that are at least as stringent as the provisions of Neb. RS 54-617 through 54-621.

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(J) *Dogs prohibited near day cares and schools.* It shall be unlawful for any person, business or other legal entity to own, possess, keep, exercise control over and/or maintain or harbor within 500 feet of any daycare or school any dangerous dog, pit bull, Rottweiler, Akita or any mixture thereof unless the dog is kenneled or housed inside of a dwelling unit.

(K) *Violation; destruction of dog.* The violation of any provision of this section shall be punishable pursuant to § 10.99 of this Code. A second or subsequent violation by the same person shall require a mandatory minimum fine of \$500. If the person convicted has been previously convicted of a violation of this section, or of any comparable city ordinance or Municipal Code provision in effect prior to the adoption of this section, then, in addition to any mandatory minimum fine, the dog involved in the subsequent violation shall be immediately confiscated by the city and thereafter destroyed in a humane and expeditious manner.

(Prior Code, § 6-3-23) (Ord. 694, passed 12-12-2006; Ord. 780, passed 11-10-2015) Penalty, see § 10.99

§ 91.22 INJUNCTION.

The city may seek an order by way of injunction or any other remedy from a court of appropriate jurisdiction concerning the interpretation and enforcement of this code concerning the harboring, impoundment and disposition of domestic animals under the provisions of this code.

(Prior Code, § 6-3-24) (Ord. 701, passed 10-16-2007)

§ 91.23 ANIMALS BANNED.

(A) It shall be unlawful for any owner or person entitled to the possession of an animal to maintain within the corporate limits any horse, mule, sheep, goat, cow, swine or other livestock, except in zoning districts where the keeping of livestock is permitted pursuant to the city zoning code.

(B) *Exception.* Any provision of this Code involving domestic animals concerning provisions involving keeping animals, the number of animals or related provisions shall not be enforceable to the extent that the animal is determined to be a companion animal under state or federal law.

(Ord. 741, passed 7-19-2012; Ord. 748, passed 11-13-2012)

§ 91.24 FOWL BANNED.

It shall be unlawful for any person to keep or maintain within the corporate limits any poultry, chickens, turkeys, geese or any other fowl, wild animals or birds as defined in § 91.01.

(Ord. 741, passed 7-19-2012)

§ 91.25 LARGE ANIMALS AT LARGE.

In the event that any animal placed on property pursuant to a permit escapes the confines of the property and/or any animal is running at large without being under the direct control of the owner or his or her designee, the owner or permit holder shall be in violation of this Code. The Police Chief or other officer designated by the Mayor and Council is hereby authorized to destroy any large animal, running at large within the corporate limits of the city, which is vicious or dangerous to any person in the city or injures any person in the city, so as to protect the public safety.

(Ord. 754, passed 9-10-2013)

CHAPTER 92: FIRE PREVENTION AND FIREWORKS

Section

Fire Prevention

92.01 Adoption of Fire Prevention Code

Fireworks

92.15 Fireworks prohibited; exception
92.16 Licensing of fireworks displays
92.17 Licensing of the sale of fireworks
92.18 Application
92.19 Sale and usage

Cross-reference:

Open burning and other fire-related provisions, see Chapter 35

FIRE PREVENTION

§ 92.01 ADOPTION OF FIRE PREVENTION CODE.

(A) For the purpose of regulating and governing conditions hazardous to life and property from fire, the Uniform Fire Code 1991 Edition, sponsored by the Western Fire Chiefs Association, American Society Testing and Materials, National Fire Protection Association and published by the International Conference of Building Officials and any amendments made therein from time to time, is hereby adopted.

(B) A copy of the Uniform Fire Code, 1991 Edition, and any amendments made therein from time to time shall be on file at all times in the office of the Clerk, and shall be made a part of this code as if set out at length herein.

(Prior Code, § 7-3-1)

Statutory reference:

Similar provisions, see Neb. RS 18-132

FIREWORKS**§ 92.15 FIREWORKS PROHIBITED; EXCEPTION.**

It shall be unlawful for any person to display, store, sell, use or discharge fireworks, which are defined as fire crackers, Roman candles, sky rockets or any other pyrotechnic displays, within the city or within one-half mile of the corporate limits if the display, storage, sale, use or discharge of the fireworks is also prohibited by the laws or regulations of the state or of the United States.
(Prior Code, § 7-2-1) (Ord. 268, passed 6-3-1975) Penalty, see § 10.99

§ 92.16 LICENSING OF FIREWORKS DISPLAYS.

Pyrotechnic displays which are not otherwise prohibited may be licensed in writing by the Mayor whenever it shall be made to appear to the satisfaction of the Mayor that adequate safeguards are provided for the protection of the safety of persons and property.
(Prior Code, § 7-2-2) (Ord. 268, passed 6-3-1975)

§ 92.17 LICENSING OF THE SALE OF FIREWORKS.

It shall be unlawful for any person to engage in the sale of any fireworks, within the city unless the person shall first have obtained a license therefor.
(Prior Code, § 7-2-3) (Ord. 268, passed 6-3-1975) Penalty, see § 10.99

§ 92.18 APPLICATION.

Application for a license to sell fireworks shall be made to the Clerk. The application shall show the names and addresses of all owners and the location at which fireworks are proposed to be sold. The Clerk shall issue the license upon the payment of a fee established by resolution of the City Council for each location.
(Prior Code, § 7-2-4) (Ord. 268, passed 6-3-1975; Ord. 720, passed 9-8-2009)

§ 92.19 SALE AND USAGE.

(A) Fireworks may be sold in the city on the dates allowed for the sale of fireworks by state statute.

(B) Fireworks may be discharged in the city from 8:00 a.m. until 10:00 p.m. on the dates fireworks may be sold and until midnight on July 4. Discharge of fireworks will also be allowed on December 31

from 5:00 p.m. to midnight. The discharge of fireworks will also be allowed during special events when citizens obtain a permit issued by the City Clerk. The application will show the name and address of all owners and the location at which fireworks are proposed to be discharged. The Clerk will issue the license upon payment of a fee established by resolution of the City Council for each location. The permit shall establish the dates and times during which the discharge of fireworks would be allowed. The permit shall be approved by the Mayor.
(Ord. 744, passed 8-14-2012)

CHAPTER 93: STREETS AND SIDEWALKS

Section

Numbering of Buildings

- 93.01 Designation of numbers
- 93.02 Space allowed for each number
- 93.03 Duty of owner
- 93.04 Refusal to comply

Open Ditches

- 93.15 Open ditches prohibited

Removal of Snow and/or Ice

- 93.30 Removal of snow and/or ice, generally
- 93.31 Notice to be given
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Sidewalks

- 93.45 Specifications
- 93.46 Property owner must construct sidewalks
- 93.47 Failure to comply

NUMBERING OF BUILDINGS

§ 93.01 DESIGNATION OF NUMBERS.

(A) Every building fronting upon any of the streets in the city shall be numbered, and the following system of numbering is hereby adopted.

(B) All streets shall be numbered north from South Street and east and west from Webster Avenue. Streets running north from South Street shall be known by their present designations. Streets running east from Webster Avenue shall be called east streets. Streets running west from Webster Avenue shall

be called west streets. All odd numbers shall be given to the buildings on the south side, and even numbers shall be given to the buildings on the north side of each street running east and west. On all streets running north and south, the odd numbers shall be on the west side, and the even numbers shall be on the east side of each street.

(C) Numbers shall commence on all streets running north from South Street with 100 for the first number in the first block, 200 for the first number in the second block, 300 for the first number in the third block, and in the same manner throughout the city limits. Numbers shall commence on all streets running east from Webster Avenue with 100 for the first number in the first block, 200 for the first number in the second block, and in the same manner throughout the city limits. Numbers shall commence on all streets running west from Webster Avenue with 100 for the first number in the first block, 200 for the first number in the second block, 300 for the first number in the third block and in the same manner throughout the city limits.

(Prior Code, § 9-1-1)

§ 93.02 SPACE ALLOWED FOR EACH NUMBER.

The space allowed each number shall be 12-1/2 feet. To find the first number of the block, count one number for each 12-1/2 feet until opposite the door, and the number for those 12-1/2 feet shall be the number for the door or building.

(Prior Code, § 9-1-2)

§ 93.03 DUTY OF OWNER.

It shall be the duty of each owner or occupant to place or cause to be placed and maintained upon the front of his or her building, in plain, distinct figures, in a conspicuous place near the front entrance, the number of the building.

(Prior Code, § 9-1-3)

§ 93.04 REFUSAL TO COMPLY.

In case of refusal or neglect of any person to number his or her building as provided in this chapter, the Council may order the proper number placed thereon and charge the cost thereof against and collect the same from the property so numbered, in the same manner as provided by law for the levy and collection of special assessments.

(Prior Code, § 9-1-4) (Ord. 57, passed 1-4-1921)

OPEN DITCHES

§ 93.15 OPEN DITCHES PROHIBITED.

No person shall hereafter convey or conduct water in ditches across any street or alley, or in any other manner across the surface of the street or alley, within the city unless conveyed through a culvert of sufficient size to carry same.

(Prior Code, § 9-2-1) (Ord. 60, passed 8-9-1921) Penalty, see § 10.99

REMOVAL OF SNOW AND/OR ICE

§ 93.30 REMOVAL OF SNOW AND/OR ICE; GENERALLY.

It shall be the duty of the owner or tenant of any premises abutting or adjoining any public sidewalk to remove all snow and/or ice from the sidewalk.

(Prior Code, § 9-5-1) Penalty, see § 10.99

§ 93.31 NOTICE TO BE GIVEN.

It shall be the duty of the city to give notice to an owner or tenant of any property to remove snow and/or ice, which notice shall be sent by registered mail to the last known address of the owner, tenant or occupant. The owner or occupant shall have not more than 24 hours from and after receipt of the notice, within which to remove the snow and/or ice as set forth in the notice.

(Prior Code, § 9-5-2) Penalty, see § 10.99

§ 93.32 UPON FAILURE TO COMPLY, CITY TO REMOVE.

(A) Upon failure of an owner or tenant to comply with the provisions of this chapter, the city shall have the right to remove the snow and/or ice and assess the cost thereof against the premises abutting the sidewalk.

(B) The assessment to be certified to the County Assessor or other proper county official having charge of the making of the assessment roll and the charge shall be placed on the assessment roll and collected in the same manner as other city taxes are collected.

(Prior Code, § 9-5-3)

Statutory reference:

Similar provisions, see Neb. RS 17-557

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SIDEWALKS

§ 93.45 SPECIFICATIONS.

The material and method of constructing sidewalks shall conform in all respects to the specifications adopted by the governing body. These specifications shall be on file in the Clerk's office at all times. No sidewalk constructed after the adoption of this section shall be less than four feet in width.

(Prior Code, § 9-6-1) (Ord. 544, passed 8-12-1995) Penalty, see § 10.99

§ 93.46 PROPERTY OWNER MUST CONSTRUCT SIDEWALKS.

It shall be the duty of every property owner, upon notification by the governing body, to construct or repair sidewalks as such is prescribed in the notice.

(Prior Code, § 8-6-2) Penalty, see § 10.99

§ 93.47 FAILURE TO COMPLY.

If the property owner shall fail, after notification, to construct or repair any sidewalk, the governing body may order same constructed or repaired. The costs of the work shall be assessed against the property owner for which the sidewalk was constructed or repaired and the costs shall become a lien upon the property.

(Prior Code, § 9-6-3)

Statutory reference:

Similar provisions, see Neb. RS 17-522

CHAPTER 94: NUISANCES

Section

Abandoned Containers

94.01 Unlawful act

Weeds and Junk

94.15 Definitions

94.16 Accumulation of litter, junk and weeds prohibited

94.17 Failure to comply

Cross-reference:

Open burning and other fire-related provisions, see Chapter 35

ABANDONED CONTAINERS

§ 94.01 UNLAWFUL ACT.

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has a door or lid, snaplock or other locking device which may not be released from the inside, without first removing the door or lid, snaplock or other locking device.

(Prior Code, § 6-8-1) Penalty, see § 10.99

WEEDS AND JUNK

§ 94.15 DEFINITIONS.

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

Bayard - General Regulations***JUNK.***

- (1) Old iron, steel or other metals, glass, paper or other wastes that may be used again in some form;
- (2) Secondhand, worn or discarded articles of little value stored adjacent to or in close proximity to any schoolhouse, church, public parks, public grounds, business buildings or residences without first providing proper and tight buildings for the storage of the junk; and
- (3) Lumber, wood, metal, pipe and plastics except where weeds and grasses around the stored materials are kept mowed, and the storage is maintained in a neat and safe manner.

LITTER. Includes, but is not limited to:

- (1) Trash, rubbish, refuse, garbage, paper, rags and ashes;
- (2) Wood, plaster, cement, brick or stone building rubble;
- (3) Grass, leaves, tree limbs and worthless vegetation;
- (4) Offal and dead animals;
- (5) Machines, 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; and
- (6) Dead trees which overhang adjoining public or private property in a way so as to endanger persons or property on adjoining property, or are piled in such a way as to cause danger of fire.

WEEDS. Includes, but is 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 aeravfensis*), horse nettle (*Solarium carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rahmnus sp.*) (Tourn), hemp plant (*Cannabis sativa*) and ragweed (*Ambrosiaceae*). (Prior Code, § 9-4-1) (Ord. 537, passed 5-9-1995; Ord. 577, passed 6-10-1997)

§ 94.16 ACCUMULATION OF LITTER, JUNK AND WEEDS PROHIBITED.

It is hereby declared to be a nuisance for the owner or person in lawful possession of a lot or piece of ground in the city to permit, allow or maintain any growth of weeds, grasses or worthless vegetation of 12 inches or more in height on any lot or piece of ground and the adjoining streets and alleys, or to

litter or cause or permit litter or junk to be deposited on or remain on any lot or piece of ground except in proper receptacles.

(Prior Code, § 9-4-2) (Ord. 537, passed 5-9-1995)

§ 94.17 FAILURE TO COMPLY.

(A) The Chief of Police shall have the power to investigate ail complaints of violations of this section, and if he or she finds that the property owner or the person in lawful possession of the property has violated or allowed a violation of § 94.16 above, shall give notice to the owner or person in lawful possession of the property by personal service or certified mail to remove the litter or junk or mow the weeds within five days.

(B) If the owner of the property or person in lawful possession of the property does not request a hearing with the City Council or fails to comply with the order to abate and remove the nuisance within the time stated in the notice, the city may have the work done.

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

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

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

(Prior Code, § 9-4-3) (Ord. 577, passed 6-10-1997)

CHAPTER 95: TREES

Section

- 95.01 Definitions
- 95.02 Creation and establishment of City Tree Board
- 95.03 Term of office
- 95.04 Compensation
- 95.05 Duties and responsibilities
- 95.06 Operation
- 95.07 Tree species list
- 95.08 Distances and clearances for planting public park trees
- 95.09 Public park tree care
- 95.10 Tree topping
- 95.11 Street tree clearance over streets and walkways; maintenance; trimming
- 95.12 Removal of dead public trees; removal of branches to maintain clearance over streets and walkways; nuisance; assessment of costs
- 95.13 Interference with the Tree Board
- 95.14 Access to private property
- 95.15 Tree service registration

§ 95.01 DEFINITIONS.

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

PARK TREES. Trees in public parks or other city property.

PRIVATE TREES. All trees within municipal boundaries but not owned by the city.

PUBLIC TREES. All street and park trees and other trees owned by the city.

STREET TREES. Trees on land lying between the property lines on either side of all streets and avenues within the city.

(Prior Code, § 2-3-1) (Ord. 478, passed 1-12-1993)

§ 95.02 CREATION AND ESTABLISHMENT OF CITY TREE BOARD.

There is hereby created and established a City Tree Board for the city which shall consist of six members, citizens and residents of the city, who shall be appointed by the Mayor with the approval of the City Council.

(Prior Code, § 2-3-2) (Ord. 625, passed 6-13-2000)

§ 95.03 TERM OF OFFICE.

The term of the six persons to be appointed by the Mayor shall be as follows: each member shall serve a term of three years. The terms shall be staggered so that each year, two positions shall become vacant and subject to appointment by the Mayor. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed to complete the term of that member.

(Prior Code, § 2-3-3) (Ord. 625, passed 6-13-2000)

§ 95.04 COMPENSATION.

Members of the Tree Board shall serve without compensation.

(Prior Code, § 2-3-4) (Ord. 478, passed 1-12-1993)

§ 95.05 DUTIES AND RESPONSIBILITIES.

(A) *Develop tree program.* It shall be the responsibility of the Tree Board to develop and administer an active, comprehensive city tree program.

(B) *Special matters relating to trees.* The Tree Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter or question relating to trees.

(C) *Jurisdiction.* Notwithstanding anything in this chapter to the contrary, the Tree Board shall have no authority, jurisdiction or responsibility over the city municipal golf course also known as Chimney Rock Golf Course.

(Prior Code, § 2-3-5) (Ord. 478, passed 1-12-1993; Ord. 481, passed 3-9-1993)

§ 95.06 OPERATION.

The Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Prior Code, § 2-3-6) (Ord. 478, passed 1-12-1993)

§ 95.07 TREE SPECIES LIST.

(A) The city shall maintain a list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population.

(B) This list shall be available to residents of the city to aid in the selection of trees for private and public properties.

(C) The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.
(Prior Code, § 2-3-7) (Ord. 478, passed 1-12-1993)

§ 95.08 DISTANCES AND CLEARANCES FOR PLANTING PUBLIC PARK TREES.

(A) *Tree lawns.* Trees may be planted in the tree lawn where there is at least six feet between the edge of the sidewalk and the curb of the street. Trees shall be planted no closer than three feet from a sidewalk, driveway or street.

(B) *Street corners.* No tree shall be planted closer than 35 feet from any street corner, measured from the point of the nearest intersection of curbs or curb lines.

(C) *Fire plugs.* No tree shall be planted closer than ten feet from any fireplug.

(D) *Utility lines.* No trees other than small trees recommended per the tree species list under § 95.07 above, may be planted under or within ten lateral feet of any overhead utility line; nor over or within five lateral feet of any underground utility line.

(E) *Spacing.* The spacing of trees will be in accordance with the two species size classes recommended per the tree species list under § 95.07 above, and no trees may be planted closer together than 20 feet for small trees and 40 feet for large trees.
(Prior Code, § 2-3-8) (Ord. 478, passed 1-12-1993)

§ 95.09 PUBLIC PARK TREE CARE.

(A) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right-of-way or bounds of all public parks as may be necessary to ensure the public safety.

(B) The city may remove any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to electric power lines or other public improvements, or is seriously affected with any fatal disease.
(Prior Code, § 2-3-9) (Ord. 478, passed 1-12-1993)

§ 95.10 TREE TOPPING.

It shall be unlawful for any person, firm or city department to top any public park trees. **TOPPING, ROUNDING OFF** or **POLLARDING** is defined as the systematic cutting back of limbs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. This provision shall not apply, when necessary, to trim trees away from electric or utility lines. Private property owners are encouraged to refrain from topping trees on their property. (Prior Code, § 2-3-10) (Ord. 651, passed 2-5-2003) Penalty, see § 10.99

§ 95.11 STREET TREE CLEARANCE OVER STREETS AND WALKWAYS; MAINTENANCE; TRIMMING.

(A) Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of ten feet must be maintained over walkways and a clearance of 15 feet must be maintained over streets and alleys.

(B) Property owners are responsible for trees on their property as well as trees on the public right-of-way where it abuts their property. Property owners who fail to maintain clearance over streets and walkways shall be subject to the nuisance provision § 95.12 below, and assessment of costs. (Prior Code, § 2-3-11) (Ord. 478, passed 1-12-1993; Ord. 718, passed 9-8-2009)

§ 95.12 REMOVAL OF DEAD PUBLIC TREES; REMOVAL OF BRANCHES TO MAINTAIN CLEARANCE OVER STREETS AND WALKWAYS; NUISANCE; ASSESSMENT OF COSTS.

(A) *Nuisance declared.*

(1) It is hereby declared to be a nuisance for the property owners to permit, allow or maintain any dead or diseased trees within a right-of-way of streets or to allow or maintain any live tree with less than the clearance above streets and sidewalks as provided for in § 95.11 above within the city limits. Notice to abate and remove the 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 the Tree Board by personal service or certified mail.

(2) Within 30 days after the receipt of the 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 the work done and may levy and assess all or any portion of the costs and expenses of the work on the lot of piece of ground so benefitted in the same manner as other special taxes for improvement are levied and assessed. There shall be a presumption that any work done by the city crew shall be assessed at the rate of \$500 per hour to adequately compensate the city for the use of men and equipment.

(B) *Hearing.*

(1) A hearing shall be held by the City Council if a request in writing is delivered to the City Clerk at least ten days before a regular meeting of the City Council.

(2) A copy of the notice shall be delivered by the City Clerk to the Chairperson of the Tree Board. The City Council shall consider recommendations from the Tree Board at the hearing. The decision of the City Council shall be considered a final resolution of the appeal.
(Prior Code, § 2-3-12) (Ord. 718, passed 9-8-2009) Penalty, see § 10.99

§ 95.13 INTERFERENCE WITH THE TREE BOARD.

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its representatives or agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any public trees.
(Prior Code, § 2-3-13) (Ord. 478, passed 1-12-1993) Penalty, see § 10.99

§ 95.14 ACCESS TO PRIVATE PROPERTY.

It shall be unlawful for any person to prevent, delay or interfere with access to private property by the city or its representative in the legal performance of any section of this chapter.
(Prior Code, § 2-3-14) (Ord. 478, passed 1-12-1993) Penalty, see § 10.99

§ 95.15 TREE SERVICE REGISTRATION.

Persons or firms engaged in the business or occupation of pruning, treating or removing any street tree, park tree or other privately owned tree must be registered at the city office. Criteria for registration includes physical evidence of liability insurance, workers' compensation and a valid EPA certified pesticide applicator license number. No registration shall be required by any public employee doing the work in the pursuit of their public service endeavors.
(Prior Code, § 2-3-15) (Ord. 478, passed 1-12-1993)

