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CHAPTER II – MISDEMEANORS

ARTICLE I – MISDEMEANORS

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

1. It shall be unlawful for any person to drink alcoholic liquor of any kind on the streets or alleys, upon property used or owned by the government of the United States, the State of Nebraska or any governmental subdivision thereof or in theaters, dance halls or in any other place open to or frequented by the public within said city, unless such premises are licensed for such purposes by the State or unless a special permit has been granted for the same by the City Council.

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

(Ref. Neb. Rev. Stat. §53-186, 53-1,100)

SECTION 2-102: DISTURBING THE PEACE

It shall be unlawful for any person to willfully, maliciously, intentionally or unnecessarily disturb the peace and quiet of any person, family, neighborhood or public assembly. The offense of disturbing the peace shall include, but not necessarily be limited to, the following:

1. Engaging in fighting;
2. Exhibiting threatening or violent conduct toward another person;
3. Using abusive, threatening, or other fighting language or gestures directed toward another person;
4. The using, operating or permitting to be played, used or operated any radio receiving set, compact disc player, tape player, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighborhood inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person(s) who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto shall be deemed a violation of this section. The operations of any such instrument, phonograph, machine or device between the hours of 10:00 P.M. and 7:00 A.M. in such a manner as to be plainly audible at a distance of 50 feet from the source shall be prima facie evidence of a violation of this section.

SECTION 2-103: DISTURBING AN ASSEMBLY

It shall be unlawful for any person to disturb, interrupt or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening

behavior, or indecent and shocking behavior. Any person or persons so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with state statute.

SECTION 2-104: CONTROL OF EXCESSIVE NOISE

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

SECTION 2-105: DISORDERLY CONDUCT

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the City by clamor or noise, intoxication, drunkenness, fighting, using of obscene or profane language in the streets or other public places, or by otherwise indecent or disorderly conduct or lascivious behavior. (Ref. Neb. Rev. Stat. §17-129, 17-556)

SECTION 2-106: MALICIOUS DESTRUCTION OF PROPERTY

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

SECTION 2-107: TRESPASSING

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

SECTION 2-108: WINDOW PEEPING

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

SECTION 2-109: STALKING

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

SECTION 2-110: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS

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

SECTION 2-111: INDECENT EXPOSURE OF PERSON; PUBLIC URINATION; INDECENT BOOK, PICTURE, PLAY OR DESIGN

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

SECTION 2-112: RESISTING OR FAILING TO ASSIST OFFICER PROHIBITED

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

SECTION 2-113: IMPERSONATING OFFICER PROHIBITED

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

SECTION 2-114: OBSTRUCTING OFFICER PROHIBITED

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

SECTION 2-115: LITTERING

1. Any person who deposits, throws, discards or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

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

2. "Litter" as used in this section shall mean all waste material susceptible to being dropped, deposited, discarded or otherwise disposed of by any person upon any property but does not include wastes of primary processes of farming or manufacturing.

3. "Waste material" as used in this section shall mean any material appearing in a place or in a context not associated with the material's function or origin.

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

(Ref. Neb. Rev. Stat. §17-123.01, 28-523)

SECTION 2-116: TRASH

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

SECTION 2-117: APPLIANCES IN YARD

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

SECTION 2-118: POSTING; PERMISSION REQUIRED

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

SECTION 2-119: OBSTRUCTION OF PUBLIC WAYS

It shall be unlawful for any person to erect, maintain or allow to remain on any street or public sidewalk a stand, wagon, display or other obstruction inconvenient to or inconsistent with the public use of the same.

SECTION 2-120: OBSTRUCTION OF WATER FLOW

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

SECTION 2-121: TREES; INJURY, TRIMMING; PUBLIC SERVICE COMPANY

It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade or other

tree growing on any land belonging to another person or on any public land in the corporate limits of the City. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make application to the City Council, and the written permission of the City Council shall constitute the only lawful authority on the part of the company to do so.

SECTION 2-122: STREET GAMES PROHIBITED

It shall be unlawful for any person to play catch, bat a ball, kick or throw a football, or to engage in any other sport or exercise upon the city streets and sidewalks. Nothing herein shall be construed to prohibit or prevent the City Council from ordering certain streets and public places blocked off from time to time for the purpose of providing a safe area to engage in such sport and exercise.

SECTION 2-123: PROHIBITED FENCES

It shall be unlawful for any person to erect or cause to be erected and maintain any barbed wire or electric fence within the corporate limits where such fence abuts a public sidewalk, street or alley.

SECTION 2-124: DISCHARGING FIREARMS; PROHIBITED

It shall be unlawful for any person to discharge any firearm, air gun or slingshot loaded with rocks or other dangerous missiles within the City; provided, this section shall not apply to shooting galleries or other private shooting ranges within buildings or other structures approved by the mayor and City Council.

SECTION 2-125: POSSESSION OF TOBACCO BY MINORS

1. Except as provided herein, it shall be unlawful for any person under the age of 18 years to possess any tobacco products.
2. Exceptions: It shall not be unlawful for any person under the age of 18 years to:
 - A. Sell or handle any unopened container of tobacco products in the course of his/her employment by a tobacco licensee; or
 - B. Possess or purchase tobacco products while under the direct supervision of an adult to enforce or test compliance statutes, laws or ordinances governing the sale of tobacco products, having provided written parental consent to participate in such enforcement or compliance testing.
3. "Tobacco products" shall be defined as any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.
4. Persons convicted of violating the provisions of this section shall be punished by a monetary fine of not less than \$35.00 and not more than \$100.00.

SECTION 2-126: SALE OF TOBACCO PRODUCTS TO MINORS

1. The following definitions shall apply herein:

- A. "Business" shall mean any sole proprietorship, joint venture, corporation or other business entity, including retail establishments where goods or services are sold.
- B. "Minor" shall mean any person under eighteen years of age.
- C. "Person" shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or other legal entity.
- D. "Self-service merchandising" shall mean any open display of tobacco or tobacco products and point-of-sale tobacco-related promotional products to which customers have access without the assistance or intervention of an employee.
- E. "Tobacco product" shall mean any tobacco cigarette or cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized by smoking, chewing, inhaling, or other means of ingestion.
- F. "Tobacco retailer" shall mean any person or entity operating a store, stand, booth, concession, or other place which sells tobacco or tobacco products to customers for consumption or use, whether utilized primarily for the sale of tobacco or tobacco products or in which the sale of tobacco or tobacco products is incidental.
- G. "Tobacco vending machine" shall mean any electronic or mechanical device utilizing the insertion of money, whether coin or paper currency or other things of value, which dispenses or releases tobacco or tobacco products.
- H. "Vendor-assisted access" shall mean access to tobacco or tobacco products wherein customers do not have direct access to take possession of such without assistance from a store employee.

2. It shall be unlawful for any person or organization within the City:

- A. To sell, permit to be sold, or offer for sale tobacco or tobacco products to any person by means other than vendor-assisted access; or
- B. To display tobacco or tobacco products in a manner allowing customers access to tobacco or tobacco products without vendor assistance; or
- C. To give away, hand out or otherwise distribute free samples of cigarettes or other tobacco products, or coupons that can be redeemed for free samples of cigarettes or other tobacco products; or
- D. To sell tobacco products in any form except in original factory-wrapped packages.

3. This section shall not apply to tobacco vending machines regulated by state law, tobacco retail stores, or to any business, retailer or establishment which is licensed by the Nebraska Liquor Control Commission for a dispensing license and required to be

posted preventing any minors from access to the premises nor shall this ordinance apply to other forms of sale or distribution which are specifically allowed by federal or state law. This exception shall not apply to the sale of tobacco or tobacco products by vending machine or other similar distribution method which is not regulated by the Nebraska Liquor Control Commission or by other state or federal laws.

SECTION 2-127: FIREWORKS PERMITTED AND PROHIBITED

1. It shall be unlawful for any person within the City to possess, sell, offer for sale, hold for sale, bring into the City, use or discharge any fireworks, except for the following:

- A. Consumer fireworks, as defined by Neb. Rev. Stat. §28-1241, as amended; or
- B. Any display fireworks purchased by a person licensed to purchase such fireworks and purchased from a licensed distributor; or
- C. Any display fireworks purchased by the holder of a display permit issued pursuant to Neb. Rev. Stat. §28-1239.01; or
- D. Any fireworks brought into this state for storage by a licensed distributor and held for sale outside of this state; or
- E. Any fireworks furnished for agricultural purposes pursuant to written authorization from the state fire marshal to any holder of a distributor's license; or
- F. Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a grain of explosive material.

2. The term "fireworks" shall mean any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of consumer or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations.

3. The use or discharge of consumer fireworks under subsection 2-127(1)(A) above shall be subject to the following rules:

- A. The possession, use or discharge of consumer fireworks shall comply with the laws of the state of Nebraska.
- B. Notwithstanding other rules, consumer fireworks may be used or discharged only on June 25 through July 4 and December 28 through December 30, inclusive, between the hours of 8:00 a.m. and 10:00 p.m. on those days and from 8:00 a.m. on December 31 through 12:30 a.m. on January 1.
- C. Consumer fireworks may only be possessed, used or discharged by a person 16 years of age or older; provided, a person 12 years of age or older and less than 16 years of age may possess, use or discharge consumer fireworks but only when in the immediate presence of and under the direct supervision of an adult 19 years of age or older.

4. The sale of fireworks shall be regulated by Chapter 7 of this Code.

ARTICLE II – CURFEW

SECTION 2-201: CURFEW HOURS

It shall be unlawful for any person under the age of 18 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings or lots or otherwise operate any bicycle or other vehicle in, upon, over or through the streets or other public places of the City between the hours of 10:30 P.M. of any day, Sunday through Thursday, until the hour of 5:00 A.M. of the next day, and between the hours of 12:30 A.M. on Friday or Saturday until the hour of 5:00 A.M., unless such person is accompanied by a parent, guardian or other adult person having the legal care and custody of said minor person or unless the minor person is upon an emergency errand or legitimate business, directed by his/her parents, guardian or legal custodian, except as hereinafter provided. (Am. by Ord. No. 571, 11/11/08)

SECTION 2-202: CURFEW HOURS EXTENDED

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

SECTION 2-203: VIOLATION; PARENTAL LIABILITY

It shall be unlawful for any parent, guardian or other adult person having the care and custody of minors under the age of 18 years to allow or permit said minor persons to do any of the acts or things prohibited by Section 2-201 or 2-202. (Am. by Ord. No. 571, 11/11/08)

SECTION 2-204: ENFORCEMENT; POLICE AUTHORIZATION

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

SECTION 2-205: PENALTIES

Any violation of the foregoing provisions of this article shall constitute a misdemeanor and shall be punishable by a warning for the first offense and a fine of \$50.00 for the second offense. A third and any subsequent violation shall constitute a violation of Section 2-203 and a complaint shall be filed against the parent(s) of said child for violation of such section.

ARTICLE III – DOGS

SECTION 2-301: LICENSE

1. Any person who shall own, keep, or harbor a dog over the age of four months

within the City shall, within 10 days after acquisition of the said dog, obtain a license for each such dog annually by and before March 31. Such license fee shall be as established from time to time by resolution of the City Council. The said tax shall be delinquent from and after March 31; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to March 31 of any year shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days thereafter. Licenses shall be issued by the city clerk upon the payment of a license fee fixed by resolution of the City Council. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made, upon printed forms provided for such purpose, his/her name and address and the name, breed, color, and sex of each dog.

2. When the license is applied for, the owner shall present a certificate showing that each dog has had a rabies shot pursuant to Nebraska RRS 71-4401 through 71-4412, effective for the ensuing year of the license. No license or tag shall be issued until such certificate is shown.

(Ref 17-526, 54-603, 71-4412 RS Neb.) (Am. by Ord. No. 55, 12/4/79)

SECTION 2-302: LICENSE TAGS

Upon payment of the license fee, the city clerk shall issue to a dog owner a license certificate and a metallic tag for each dog so licensed. The tag shall be properly attached to the collar or harness of each dog so licensed and shall entitle the owner to keep or harbor the said dog until March 31 following such licensing. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearance each year. In the event that a license is lost, and upon request of the owner, the clerk shall issue a duplicate license for a fee of \$1.00. (Ref 17-526, 54-603 RS Neb.)

SECTION 2-303: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other city identification than that issued by the city clerk for dogs. (Ref 17-526, 54-603 RS Neb.)

SECTION 2-304: OWNER DEFINED

Any person who shall harbor or permit any dog to be in or about his or her house, store, or enclosure or to remain to be fed for ten days or more shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed. (Ref 54-606, 71-4401 RS Neb.)

SECTION 2-305: UNCOLLARED OR UNHARNESSED

All dogs found running at large upon the streets and public grounds of the City without a collar or harness are hereby declared a public nuisance. Uncollared or unharnessed dogs found running at large by city personnel shall be destroyed or impounded at a dog boarding kennel as designated by the City Council. (Ref 54-605 RS Neb.) (Am. by Ord. No. 431, 7/10/01)

SECTION 2-306: RUNNING AT LARGE

It shall be unlawful for the owner of any dog to allow it to run at large at any time within

the corporate limits of the City. It shall be the duty of the city police to cause any dog found to be running at large within the City to be captured and impounded. Any dog "running at large" shall mean it has been 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. (Ref 17-526, 54-607 RS Neb.)

SECTION 2-307: 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. (Ref 17-526 RS Neb.)

SECTION 2-308: VICIOUS DOGS

1. A "vicious" dog as the term is used in this section means:

- A. Any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite; or
- B. Any dog with a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of humans or domestic animals; or
- C. Any dog which attacks a human or a domestic animal on two or more occasions without provocation; or
- D. Any pit bull dog. "Pit bull" is defined as:
 - i. Bull Terrier breed of dogs;
 - ii. Staffordshire Bull Terrier breed of dogs;
 - iii. American Pit Bull Terrier breed of dogs.

2. A vicious dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the person owning, harboring, or having the care of such vicious dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, then the sides must be imbedded in the ground no less than two feet.

3. No person owning or harboring or having the care of a vicious dog shall permit such dog to go unconfined on his/her premises.

4. No person owning, harboring or having the care of a vicious dog shall suffer or permit such dog to go beyond his/her premises unless such dog is secured with a leash no longer than four feet in length. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all vicious dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

5. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such

dog may be kept in a house or structure when the windows are open or when screened windows or screen doors are the only obstacles preventing the dog from exiting the structure.

6. Every owner, keeper or harbinger of a vicious dog within the City shall display in a prominent place on his/her premises a sign easily readable by the public, bearing the words "vicious dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

7. Every owner, keeper or harbinger of a vicious dog must provide to the city clerk proof of public liability insurance in a single incident amount of \$50,000.00 per bodily injury to or death of any person or persons or for damage to property owned by any person which may result from the owning, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days' written notice is first given to the city clerk. If any vicious dog is allowed to run at large, the city police shall have the authority to put the dog to death.

8. Whoever violates the provisions of this section shall be fined not more than \$500.00. In addition, any vicious dog which attacks a human being or another domestic animal may be ordered destroyed when, in the Court's judgment, such vicious dog represents a continuing threat of serious harm to human beings or domestic animals. In addition, any person found guilty of violating this section shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog.

(Ord. No. 212, 7/12/88) (Am. by Ord. No. 431, 7/10/01)

SECTION 2-309: INTERFERENCE WITH POLICE

It shall be unlawful for any person to hinder, delay, or interfere with any city police officer who is performing any duty enjoined upon him by the provisions of this Article. (Ref 28-906 RS Neb.)

SECTION 2-310: CRUELTY TO ANIMALS

It shall be unlawful for any person to cruelly, inhumanely, or unnecessarily beat, injure, overwork or insufficiently shelter and feed any dumb animals. (Ord. No. 55, 12/5/78)

SECTION 2-311: KILLING AND POISONING

It shall be unlawful to kill, administer or cause to be administered poison of any sort to a dog or in any manner to injure, maim, destroy or 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, this Section shall not apply to city police officers acting within their power and duty. (Ref 28-1002 RS Neb.)

SECTION 2-312: BARKING AND OFFENSIVE DOGS

It shall be unlawful for any person to own, keep, or harbor any dog which (1) by loud, continued, or frequent barking, howling, or yelping annoys or disturbs any neighborhood or person or (2) habitually barks at or chases pedestrians, drivers, or owners of horses or

vehicles while they are on any public sidewalks, streets, or alleys in the City. Upon the written complaint of one or more affected persons filed with the city clerk 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 shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such dog. (Ref 17-526 RS Neb.)

SECTION 2-313: LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept or harbored by him/her or under his/her charge or control to injure or destroy any real or personal property belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment, upon conviction may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Ref 54-601, 54-602 RS Neb.)

SECTION 2-314: REMOVAL OF TAGS

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

SECTION 2-315: IMPOUNDING

It shall be the duty of designated city personnel to capture, secure and remove in a humane manner any dog requiring impoundment for violating any of the provisions of this article. Notice of impoundment of any animal, including any significant marks or identifications, shall be posted at City Hall within 24 hours after impoundment as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of fees charged by the designated impound facility and any other fees set by resolution of the City Council. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. If any dog is not claimed at the end of three days after public notice has been given, the City shall acquire legal title to such unlicensed dog impounded for a period longer than three days after giving notice. If the City disposes of any dog, such disposition shall be accomplished by a duly licensed doctor of veterinary medicine at the expense of the City. (Ref 17-548, 71-4408 RS Neb.) (Am. by Ord. Nos. 178, 5/6/86; 431, 7/10/01)

ARTICLE IV – KENNELS

SECTION 2-401: DEFINITION; FEE

A kennel is hereby defined as any premises on which three or more dogs at least four months old or more are maintained or kept. A fee of \$25.00 shall be paid each year to the city clerk by the owner of a dog kennel. The licensing year shall be the same as that for individual dogs, and the owner shall be liable for the entire fee even though his/her premises qualifies as a kennel for only part of a licensing year. The owner shall not be required to pay a license fee for each dog in the kennel in addition to the kennel fee, and no license certificate and tag shall be required for each dog in the kennel.

SECTION 2-402: PERMIT REQUIRED

1. It shall be unlawful for any person to keep or permit to be kept any dog kennel upon any premises occupied by him/her or under his/her charge or control without having first obtained a kennel permit from the Council. Kennel permits may be issued by the Council upon written application, setting forth a description of the premises and location of the same and such other information as the Council may require.

2. No kennel permit shall be issued for any premises until the Council has first determined upon actual viewing and inspection that the operation of such kennel will not constitute a violation of the provisions of this article. The holder of any kennel permit shall allow the inspection of such premises at any reasonable time by an authorized agent of the City to determine that the premises for which the permit is issued is maintained in a humane and sanitary manner. Such permit is subject to revocation if the premises are found to be maintained otherwise.

3. The Council shall have power and authority to revoke any kennel permit at any time in its sole discretion by refunding the kennel permit fee to the holder thereof.

4. The provisions of this section shall not apply to any animal shelter or animal hospital operated by a veterinarian duly licensed under the laws of the State of Nebraska.

ARTICLE V – ANIMALS GENERALLY

SECTION 2-501: BANNED WITHIN CITY

It shall be unlawful for any person to keep or maintain within the corporate limits of the City any horse, mule, sheep, cow, goat, swine or other livestock, or any poultry, chickens, turkeys, geese or other fowl.

SECTION 2-502: CRUELTY; DEFINITIONS

"Abandon" shall mean to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

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

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

"Cruelly neglect" shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water or other care as is reasonably necessary for the animal's health.

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

"Law enforcement officer" shall mean any state trooper, county or deputy sheriff, city police officer, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations and/or ordinances.
(Ref. Neb. Rev. Stat. §28-1008)

SECTION 2-503: CRUELTY TO ANIMALS

A person commits cruelty to animals if, except as otherwise authorized by law, he/she intentionally or recklessly (1) subjects any animal to cruel mistreatment; (2) subjects any animal in his/her custody to cruel neglect; (3) abandons any animal; or (4) kills or injures any animal belonging to another. (Ref. Neb. Rev. Stat. §28-1009)

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

Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may (1) seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal or (2) issue a citation to the owner as prescribed by law. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (Ref. Neb. Rev. Stat. §28-1012)

SECTION 2-505: ANIMAL OFF PREMISES

It shall be unlawful for the owner, keeper or harbinger of any animal or fowl, or any person having the charge, custody or control thereof, to permit such animal or fowl to be ridden, driven or run at large upon any of the public ways or property, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into a public way or to be upon the property of another within the corporate limits of the City. (Ref. Neb. Rev. Stat. §16-235)

ARTICLE VI – WEEDS, JUNK CARS, LITTER AND DANGEROUS BUILDINGS REGULATIONS

SECTION 2-601: DEFINITIONS

1. The terms "weeds, grasses or worthless vegetation" shall mean any weed or grass growth of more than 12 inches in height, or 8 inches as provided in Section 2-602. Weeds shall include but not be limited to bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed.

2. The term "litter" shall include, but not be limited to:

- A. Trash, rubbish, refuse, garbage, paper, rags and ashes;
- B. Wood, plaster, cement, brick or stone building rubble;
- C. Grass, leaves and worthless vegetation;
- D. Offal and dead animals;

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

3. The term "dangerous building" as used in this article is hereby defined to mean and include:

- A. Any building, shed, fence or other man-made structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of its occupants or those of neighboring structures;
- B. Any building, shed, fence or other man-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard;
- C. Any building, shed, fence or other man-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is liable to cause injury or damage by collapsing or by a collapse of any part of such structure;
- D. Any building, shed, fence or other man-made structure which, because of its condition or because of lack of doors or windows readily admits birds and animals or is an attraction for children or other persons to enter.

SECTION 2-602: PUBLIC NUISANCE; GRASSES OR WEEDS

It is hereby declared to be a public nuisance to permit grasses to grow in excess of 12 inches or to permit weeds of any height to be grown on any property within the corporate limits of the City. It shall also be a public nuisance to maintain any growth of 8 inches or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground located within the corporate limits during any calendar year if, within the same calendar year, the City has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner. (Am. by Ord. No. 603, 1/12/10)

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

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

SECTION 2-604: ABATEMENT

Whenever the City Council, by resolution, determines that any grass in excess of 12 inches or weeds of any height are growing on property within the City, or litter is found on any property, or that any building or structure in the City is a dangerous building, the city clerk shall cause written notice to be served upon the owner of the property on which grass, weeds, litter or such dangerous building is located, and further, upon the occupant

thereof, by registered mail or by personal service. Such notice shall state that the premises have thereon grass in excess of 12 inches, weeds or litter or that the building situated thereon has been declared to be in a dangerous condition, and that the grass in excess of 12 inches, weeds, litter or dangerous building must be removed or remedied within five days of receipt of notice.

SECTION 2-605: FAILURE TO CORRECT

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct delivered by the city clerk, he/she shall be guilty of a misdemeanor and fined in a sum of not more than \$500.00. Each day's violation after the expiration of the five days' notice shall be a separate offense. In addition, the City may bring an action in District Court to abate such nuisance by mandatory injunction.

SECTION 2-606: COST OF REMOVAL

If the owner or occupant of the lot or piece of ground fails to comply with the order to abate and remove the nuisance within five days from receipt of the notice to abate, the City may have such work done and the costs and expenses of such work shall be paid by the owner of the property. 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 lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed, or (2) recover in a civil action the costs and expenses of the work.

ARTICLE VII – CONTROL OF MINORS

SECTION 2-701: PURPOSE

1. Gang activity, criminal mischief and juvenile delinquency have become an increasing reality of life within the City. Such activity exposes the community to criminal conduct, lessens the citizens' sense of safety and well-being and generally erodes the quality of life our citizens have the right to expect and enjoy. The activities of youths age 18 and under can and should be controlled by their parents and/or legal guardians. Unless such parental responsibility is encouraged and ultimately exercised, criminal activity and incidents of juvenile mischief will continue unabated.

2. By reason of the foregoing facts, it is the recommendation of the mayor that the powers delegated by this article are urgently required for the general welfare, health, safety and security of the City and the citizens thereof.

SECTION 2-702: PARENTAL RESPONSIBILITY

Every parent or legal guardian who, by any act, omission or threats contributes to or induces or endeavors to induce his/her dependent child or ward to violate any requirements of the Valley Municipal Code or Nebraska statute concerning illegal acts shall be subject to a civil penalty. For the purposes of this article, a parent or legal guardian of any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection and control over his/her minor child or ward.

SECTION 2-703: CIVIL PENALTY

1. Any parent or guardian, except where the state or local unit of government is a guardian, who violates the provisions of this section shall be liable for a civil penalty. For violations of this article, the mayor or his/her designee, who shall be an employee of the City, shall levy a civil penalty according to the following schedule. The sequential violations provided herein shall be applicable to any and all violations occurring within any consecutive 48-month period of time. The chief of police shall forthwith notify the mayor or his/her designee of the name of the minor child or ward, the fact that the minor child or ward has been charged with and convicted and/or adjudicated of violating any state statute or city ordinance within the corporate limits of the City, and any other information of a non-confidential nature which is requested pursuant to policies and procedures approved by the City Council.

- A. First violation: Civil penalty not to exceed \$200.00.
- B. Second violation: Civil penalty not to exceed \$250.00.
- C. Third violation: Civil penalty not to exceed \$500.00.
- D. Fourth and subsequent violations: Civil penalty not to exceed \$1,000.00.

2. The mayor or his/her designee may, upon the request of the responsible parent or guardian, provide alternate methods for satisfying the civil penalty described above. Those alternates are as follows:

- A. The mayor or his/her designee may provide that the responsible parent or guardian and the child or ward may satisfy the civil penalty provided for herein by performing community service. Projects constituting acceptable community service shall be identified in the sole discretion of the mayor. Satisfaction of the civil penalty shall be at the rate of the current federal minimum wage rounded to the next highest dollar. More than one parent, guardian and child or ward may participate in the community service provided for herein, and in such event, each person's participation shall be determined on a cumulative basis for the purpose of satisfying the civil penalty.
- B. As an alternative to subparagraph (A), the responsible parent or guardian may be allowed to attend and complete an approved parenting class. Any such class shall be designated in the sole discretion of the mayor. Utilizing the parenting class alternative shall be allowed only in those instances involving either a first or second violation of this article. However, in the event of a third offense, mandatory attendance at a parenting class shall be required in addition to the monetary penalty set forth above. The mayor shall require that proof be submitted which, in the mayor's determination, demonstrates an acceptable record of attendance and completion of said parenting class.

3. The mayor shall be authorized to implement procedures and policies not inconsistent with this article upon the City Council's approval of such policies and procedures by resolution.

SECTION 2-704: REMEDY CUMULATIVE

The remedies provided in this article are in addition to the remedies and penalties under the Valley municipal code and all other laws of this state.

SECTION 2-705: APPEAL

A parent or guardian may appeal the civil penalty provided for herein by filing a written notice with the City Council within 20 calendar days of the date upon which the parent or guardian receives notice of such civil penalty. A hearing shall be held, for which the City Council shall establish the procedures. Said procedures (1) shall contain requirements for providing the parent or guardian with notice of the hearing and an appropriate time for preparation for the same, and (2) shall not be inconsistent with any of the terms set forth in this article.

SECTION 2-706: ANNUAL REPORTS BY MAYOR

The mayor shall be responsible for providing a written report to the City Council on or about one year from the date this article is approved and adopted by the City Council. The report prepared pursuant to this article shall include, but not necessarily be limited to, the number of individuals the mayor has determined to be in violation of this article; the nature of penalties invoked for each such violation; the opinion of the mayor regarding the effectiveness of the various forms of civil penalties and alternate penalties in encouraging parental responsibility; and any observation or improvements in this article which, in the opinion of the mayor, would improve the link between parental responsibility and proper conduct by a child or ward.

SECTION 2-707: SEVERABILITY

If any section, subsection, phrase or clause of this article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this article. This City Council declares that it would have adopted this article and each section and subsection thereof and each phrase or clause irrespective of the fact that any one or more of the sections, subsections, sentences, phrases or other clauses be declared invalid.

ARTICLE VIII – PENAL PROVISION

SECTION 2-801: VIOLATION; PENALTY

Anyone violating any of the terms and conditions of any of the foregoing chapter and articles shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.