

**TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: ANIMAL CONTROL

### Section

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**Alma - General Regulations***ANIMALS GENERALLY***§ 90.01 PROHIBITED AREAS AND USES.**

The keeping or maintaining of any horse, mule, sheep, cow, goat, swine or other livestock, or of any chicken, turkey, geese or other fowl, shall be subject to the following regulations, and any keeping or maintaining of any livestock or fowl not in conformity shall constitute a nuisance and a violation of this section.

(A) It shall be unlawful to keep, possess or assemble for sale, or to sell livestock at public or private sale within the municipality in any area thereof, except Lot 2, Block 1, McDowell-Freiling Addition: provided, no such livestock shall be held for sale more than (7) seven days and the pens for keeping of such livestock shall be kept clean, healthful and free of offensive material.

(B) It shall be unlawful to keep, possess or assemble any livestock or poultry for the purpose of slaughter or to slaughter any livestock in the municipality or its extraterritorial zoning jurisdiction, except upon Lots 3, 4, 5, 6 and 7, Block 16, First Addition to the municipality: provided, that no animal shall be kept for such slaughter for more than one day, and the pens for keeping said animals and the areas used for slaughter shall be kept safe and clean, healthful and free from offensive material and such operation shall comply with all regulations of the Department of Health and other regulatory bodies of the state, having jurisdiction thereof. (Ord. 2016-6, passed 5/2/16)

(C) It shall be unlawful to keep or maintain any livestock or fowl in the municipality as pets, for exhibition or public display or entertainment purposes for any length of time, without obtaining a permit from the Municipal Clerk; provided, such permits shall be limited to agricultural, entertainment or educational purposes and shall require compliance with regulations therefor as determined and established by resolution of the governing body for the protection of public health, safety and welfare. (1993 Code, § 6-201) Penalty, see § 90.99, (Ord. 2016-6, passed 5/2/16)

(D) Veterinary care facilities, licensed by the State of Nebraska and located within the municipality or its extraterritorial zoning jurisdiction, shall be permitted to keep, possess, or assemble livestock or fowl for the purposes of regular or emergency veterinary health care or managed reproductive services; provided, the pens and cages for keeping of such livestock or fowl shall be kept clean, healthful, and reasonably clear of waste, debris, or any other thing that may threaten the health or safety of animals kept on the premises; the premises otherwise complies with the nuisance regulations of the city code; and such operation complies with all regulations of the Department of Health and other regulatory bodies of the state having jurisdiction thereof. (Ord. 2016-6, passed 5/2/16)

**§ 90.02 RUNNING AT LARGE.**

It shall be unlawful for the owner, keeper or harbinger of any animal, or any person having the charge, custody or control thereof, to permit a horse, mule, cow, sheep, goat, swine or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. (1993 Code, § 6-202) Penalty, see § 90.99

*Statutory reference:*

*Related provisions, see Neb. RS 17-506*

**§ 90.03 ENCLOSURES.**

All pens, cages, sheds, yards or any other area or enclosure for the confinement or animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located. (1993 Code, § 6-203) Penalty, see § 90.99

**§ 90.04 FOWL; RUNNING AT LARGE.**

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (1993 Code, § 6-204) Penalty, see § 90.99

§90.05 Removed (Ord. 2016-6, passed 5/2/16)

*DOG REGULATIONS; GENERALLY*

**§ 90.20 LICENSE.**

(A) (1) Any person who shall own, keep or harbor a dog over the age of six months within the municipality shall within 30 days after acquisition of the said dog or within 30 days after first bringing said dog into the city, whichever occurs later, acquire a license for each such dog annually by or before January 1 of each year.

(2) The said tax shall be delinquent from and after March 10; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to January 1 of any year, shall be liable for the payment of the dog tax levied herein.

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(B) Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of \$6 for each male dog and spayed female dog and \$11 for each unspayed female dog.

(C) Said license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog.

(D) The owner shall state at the time the application is made and upon printed forms provided for such purpose, his or her name and address and the name, breed, color and sex of each dog owned and kept by him or her.

(E) A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown.

(1993 Code, § 6-101) (Ord. 2015-7, passed 1-7-2015) Penalty, see § 90.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-526, 54-603, 71-4412*

### § 90.21 LICENSE TAGS.

(A) Upon the payment of the license fee, the Municipal Clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed.

(B) The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until December 31 following such licensing.

(C) In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the governing body for each duplicate or new tag so issued.

(D) All license fees and collections shall be immediately credited to the General Fund.

(E) It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year.

(1993 Code, § 6-102) Penalty, see § 90.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-526, 54-603*

### § 90.22 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 municipal identification than that issued by the Municipal Clerk

for dogs, nor shall the owner, keeper or harbinger wrongfully and knowingly license an unspayed female dog with a license prescribed for a male or spayed female dog.

(1993 Code, § 6-103) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-526, 54-603*

**§ 90.23 OWNER DEFINED.**

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

(1993 Code, § 6-104) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 54-606, 71-4401*

**§ 90.24 PROCLAMATION.**

(A) It shall be the duty of the governing body whenever, in its opinion, the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation, or until such danger is passed.

(B) The dogs may be harbored by any good and sufficient means in a house, garage or yard on the premise wherein the said owner may reside.

(C) Upon issuing the proclamation, it shall be the duty of all persons owning, keeping or harboring any dog to confine the same as herein provided.

(1993 Code, § 6-105) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-526*

**§ 90.25 UNCOLLARED.**

(A) All dogs found running at large upon the streets and public grounds of the municipality without a license are hereby declared a public nuisance.

(B) Unlicensed dogs found running at large shall be killed or impounded in the municipal dog shelter by the Animal Control Authority.

(1993 Code, § 6-106) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 71-4408*

**§ 90.26 RUNNING AT LARGE.**

(A) It shall be the duty of the Animal Control Authority to cause any dog found to be running at large within the municipality to be taken up and impounded if the police are reasonably able to do so. If the police cannot reasonably do so, they may kill on sight any dog found to be running at large.

(B) Any owner who allows his or her dog to run at large shall also be subject to § 90.99.

(C) ***RUNNING AT LARGE*** shall mean any dog found off the premise 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.

(D) It is not necessary under this provision that the police capture the animal prior to being authorized to cite the owner thereof provided the police are able to identify the ownership of said dog. (1993 Code, § 6-107) Penalty, see § 90.99

**§ 90.27 VICIOUS; RABIES.**

The Animal Control Authority shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies.

(1993 Code, § 6-108)

***Statutory reference:***

*Related provisions, see Neb. RS 54-605*

**§ 90.28 BARKING AND OFFENSIVE.**

It shall be unlawful for any person to own, keep or harbor any dog which by loud, continued or frequent barking, howling or yelping shall annoy or disturb any neighborhood, or person, or which habitually barks at or chases pedestrians, drivers or owners of horses or vehicles while they are on any public sidewalks, streets or alleys in the municipality. If any loud, barking, howling, yelping or offensive dog is held or confined, the municipal police shall have the authority to put the dog to death, in addition to citing the owners thereof pursuant to § 90.99.

(1993 Code, § 6-109) Penalty, see § 90.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-526*

**§ 90.29 LIABILITY OF OWNER.**

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



(B) 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.

(1993 Code, § 6-110) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 54-601, 54-602*

**§ 90.30 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.

(1993 Code, § 6-111) Penalty, see § 90.99

**§ 90.31 IMPOUNDING.**

(A) It shall be the duty of the Animal Control Authority or the person designated by the governing body to capture, secure and remove in a humane manner to the municipal animal shelter any dog violating any of the provisions of this chapter.

(B) The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day.

(C) Each impounded dog shall be kept and maintained at the pound for a period of not less than three days after public notice has been given unless reclaimed earlier by the owner. If the owner is known, notice shall be given personally to him or her.

(D) Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee of \$25 if such impoundment is the first, and \$50 for the second impoundment, and \$100 for the third and subsequent impoundments. Furthermore, the owner shall be cited pursuant to § 90.99 for allowing his or her dog to run at large and/or any other violations. The owner shall then be required to pay any fines and/or fees and comply with the licensing and rabies vaccination requirements prior to release.

(E) (1) If the dog is not claimed at the end of two days after notice, if any, has been given, the Animal Control Authority may release the dog to any person upon payment of the general impoundment fee and any other expenses incurred.

(2) If the dog is not claimed at the end of three days following notice, if any, the Animal Control Authority may dispose of the dog; provided, that if, in the judgment of the Animal Control Authority, a suitable home can be found for any such dog within the municipality, the said dog shall be

turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this chapter, as well as any other expenses incurred in the capture or impoundment of the animal.

(F) The municipality shall acquire legal title to any unlicensed dog impounded in the animal shelter for a period longer than three days after giving notice. All dogs shall be destroyed and buried in a summary and humane manner. In addition, the owner is subject to § 90.99, and the owner of any dog impounded or destroyed shall be liable for all fees, costs and expenses associated with his or her capture, impoundment and destruction.

(1993 Code, § 6-112) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-548, 71-4408*

**§ 90.32 ANIMAL SHELTER.**

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

(1993 Code, § 6-113) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-548*

**§ 90.33 RABIES SUSPECTED.**

(A) Any dog suspected of being afflicted with rabies, or any dog not vaccinated in accordance with the provisions of this chapter which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten days.

(B) If, upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner, or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein.

(C) If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian.

(D) If no signs of rabies are observed, the dog may be released from confinement.

(1993 Code, § 6-114) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 71-4406*

***DANGEROUS DOGS***

**§ 90.45 DEFINITIONS.**

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

***ANIMAL CONTROL AUTHORITY.*** An entity authorized to enforce the animal control laws of a municipality.

***ANIMAL CONTROL OFFICER.*** Any individual employed, appointed or authorized by an animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

***DANGEROUS DOG.*** Any dog that, according to the records of an animal control authority:

(1) Has killed or inflicted severe injury on a human being on public or private property;

(2) Has killed a domestic animal without provocation while the dog was off the owner's property; or

(3) Has been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination and such dog again aggressively bites, attacks or endangers the safety of humans or domestic animals. A dog shall not be defined as a ***DANGEROUS DOG*** if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in § 130.01 or any other tort upon the property of the owner of the dog, who was tormenting, abusing or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or who was committing or attempting to commit a crime;

***DOMESTIC ANIMAL.*** A cat, a dog or livestock.

***OWNER.*** Any person, firm, corporation, organization, political subdivision or department possessing, harboring, keeping or having control or custody of a dog.

***POTENTIALLY DANGEROUS DOG.***

(1) Any dog that when unprovoked:

(a) Inflicts a non-severe injury on a human or injures a domestic animal either on public or private property; or

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

(2) Any specific dog with a known propensity, tendency or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

**SEVERE INJURY.** Any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

(1993 Code, § 6-115)

**Statutory reference:**

*Related provisions, see Neb. RS 54-617*

#### **§ 90.46 RESTRAINED.**

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

(1993 Code, § 6-116) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 54-618*

#### **§ 90.47 CONFINED.**

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.

(1993 Code, § 6-117) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 54-619*

#### **§ 90.48 FAILURE TO COMPLY.**

(A) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this chapter. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for

the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this chapter.

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

(1993 Code, § 6-118) Penalty, see § 90.99

**Statutory reference:**

*Related provisions, see Neb. RS 54-620*

**§ 90.99 PENALTY.**

(A) *Penalty.* Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new offense shall be deemed to have been committed every 24 hours of failure to comply.

(1993 Code, § 6-401)

(B) *Abatement of nuisance.*

(1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

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

(1993 Code, § 6-402)

(Ord. 10-0708-2, passed 10-7-2008)

**Statutory reference:**

*Related provisions, see Neb. RS 18-1720, 18-1722*



## CHAPTER 91: FAIR HOUSING

### Section

- 91.01 Purpose; declaration
- 91.02 Unlawful actions

### § 91.01 PURPOSE; DECLARATION.

(A) The city has a fair housing ordinance that is designed to prohibit discrimination in housing.

(B) It is the declared policy of the city that all persons shall have an equal opportunity for housing, regardless of sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.

(C) The ordinance is deemed an exercise of the police powers of the city for the protection of the welfare, health, peace, dignity and human rights of the people of this city.  
(Ord. 10-2010-1, passed 10-20-2010)

### § 91.02 UNLAWFUL ACTIONS.

(A) *DISCRIMINATE* and *DISCRIMINATION* means to segregate, separate, exclude or treat any person or class of persons unequally because of sex, race, color, handicap, religion, national origin, sex, or marital status of the person maintaining a household, lawful source or income, age or ancestry.

(B) It is unlawful for any person to discriminate:

(1) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof;

(2) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing;

(3) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot;

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(4) By publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing which states or indicates any discrimination in connection with housing; or

(5) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.

(C) It is also unlawful to induce or attempt to induce any person to sell, rent or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin or economic status, or by representations to the effect that such present or prospective entry will or may result in:

- (1) The lowering of real estate values in the area concerned;
- (2) A deterioration in the character of the area concerned;
- (3) An increase in criminal or antisocial behavior in the area concerned; or
- (4) A decline in the quality of the schools or other public facilities serving the area.

(D) In addition, no person may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this section or with any person who has alluded or encouraged another person in the exercise or enjoyment of any right granted or protected by this section.

(Ord. 10-2010-1, passed 10-20-2010) Penalty, see § 10.99



## CHAPTER 92: ABANDONED VEHICLES

### Section

- 92.01 Abandoned automobiles
- 92.02 Keeping of unregistered wrecked or junked vehicles unlawful; exceptions
- 92.03 Hobbyist permit
  
- 92.99 Penalty

### § 92.01 ABANDONED AUTOMOBILES.

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

#### ***ABANDONED VEHICLE.***

(a) A motor vehicle is an ***ABANDONED VEHICLE***:

1. If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;
2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
3. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
4. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
5. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or
6. If removed from private property by the city pursuant to a city ordinance or this code.

(b) An all-terrain vehicle or minibike is an **ABANDONED VEHICLE**:

1. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
2. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
3. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
4. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or
5. If removed from private property by the city pursuant to a city ordinance or this code.

(c) A mobile home is an **ABANDONED VEHICLE** if left in place on private property for more than 30 days after a local governmental unit, pursuant to an ordinance or resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in Neb. RS 60-1903.

(d) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an **ABANDONED VEHICLE** under this section.

**MOBILE HOME.** A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in Neb. RS 71-4603. **MOBILE HOME** does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to Neb. RS 60-169.

**PRIVATE PROPERTY.** Any privately owned property which is not included within the definition of public property.

**PUBLIC PROPERTY.** Any public right-of-way, street, highway, alley, or park or other state, county, or city-owned property.  
(Neb. RS 60-1901)

(B) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers issued pursuant to Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the city. Any certificate of title issued under this division to the city shall be issued at no cost to the city. (Neb. RS 60-1902)

(C) (1) Except for vehicles governed by division (B) of this section, the city shall make an inquiry concerning the last-registered owner of such vehicle as follows:

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(2) The city shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after five days from the date such notice was mailed; or

(b) Title will vest in the city 30 days after the date such notice was mailed.

(3) If the agency described in division (C)(1)(a) or (b) of this section also notifies the city that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(4) Title to an abandoned vehicle, if unclaimed, shall vest in the city:

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (C)(2)(a) of this section;

(b) Thirty days after the date the notice is mailed if the city will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(5) After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the city may retain for use, sell, or auction the abandoned vehicle. If the city has determined that the vehicle should be retained for use, the city shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the city intends to retain the abandoned vehicle for its use and that title will vest in the city 30 days after the publication.

(Neb. RS 60-1903)

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(D) (1) If a city law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

(2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (Neb. RS 60-1903.01)

(E) If a state agency caused an abandoned vehicle described in division (A)(a)(5) or (A)(b)(4) of this section to be removed from public property in this city, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section to be removed from public property in this city, the state agency shall deliver the vehicle to the city which shall have custody. (Neb. RS 60-1904)

(F) Any proceeds from the sale of an abandoned vehicle in the city's custody less any expenses incurred by the city shall be held by the city without interest, for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the city. (Neb. RS 60-1905)

(G) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the city, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the city or its contractual agent or as a result of any subsequent disposition. (Neb. RS 60-1906)

(H) No person shall cause any vehicle to be an abandoned vehicle as described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section. (Neb. RS 60-1907)

(I) No person other than one authorized by the city or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place

without license plates affixed or which is abandoned. Anyone violating this division shall be guilty of an offense.

(Neb. RS 60-1908)

(J) The last-registered owner of an abandoned vehicle shall be liable to the city for the costs of removal and storage of such vehicle.

(Neb. RS 60-1909)

(Ord. 2015-10, passed 5-4-2015) Penalty, see § 92.99

**§ 92.02 KEEPING OF UNREGISTERED WRECKED OR JUNKED VEHICLES UNLAWFUL; EXCEPTIONS.**

(A) *WRECKED, JUNKED OR DISMANTLED VEHICLE* shall mean any machine propelled by power other than human power, and designed to travel on ground or water by use of wheels, treads, runners, slides or other methods and to transport persons or property or to pull machinery or freight, which shall include, but not be limited to, automobiles, airplanes, trucks, trailers, motorcycles, motor scooters, tractors, recreational or sporting vehicles, mopeds, golf carts, go carts, riding lawnmowers, garden tractors, all terrain vehicles and such non-powered vehicles as boats, boat trailers, farm machinery, utility trailers, campers, trailers or any part or portion thereof which has had the engine, wheels or other parts removed, altered, damaged or otherwise treated or allowed to deteriorate so that the vehicle is incapable of being operated under its own power, or in the case of a non-powered vehicle that has had parts removed, altered, damaged or otherwise treated or allowed to deteriorate so that such vehicle is incapable of being pulled, towed or otherwise used for the purpose for which it was manufactured.

(B) It shall be unlawful for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, to allow any nonoperating, wrecked, junked or partially dismantled vehicle to remain on such property longer than 30 days. It shall be unlawful for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, to allow any vehicle which has been unregistered for more than 30 days to remain on such property. This section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise, a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, or a vehicle on the premises of a person who has obtained a hobbyist permit for the restoration of said vehicle.

(C) The city or its contracted agent shall not be liable for any loss or damage to a vehicle or the property from which it is removed which occurs during removal or while in the possession of the city or its contracted agent or as a result of any subsequent disposition.

(Ord. 05-049-01, passed 5-5-1999) Penalty, see § 92.99

**§ 92.03 HOBBYIST PERMIT.**

A hobbyist permit for the restoration or repair of up to two non-operating, wrecked, junked or partially dismantled vehicles or keeping off-road vehicles for stock car racing, demolition derbies or other such off road uses on any premises used for residential purposes may be granted to the resident of such premises as follows.

(A) Application for the hobbyist permit shall be filed in writing with the City Clerk on a form provided by the city and shall contain the name and address of the applicant and the make, model, year and vehicle identification number of each vehicle to be restored or repaired or used as a stock car or in a demolition derby.

(B) The vehicle(s) to be restored or repaired or used in a demolition derby or for stock car racing shall be owned by the applicant.

(C) The fee for such hobbyist permit shall be \$100 per year per vehicle.

(D) Anyone who obtains a hobbyist permit shall not have wrecked, junked or dismantled vehicles or the parts thereof strewn about the premises unless such vehicle and all parts thereof are kept in a completely enclosed building or are screened from the public view by natural or other means provided that such screened-off area does not otherwise violate any provision of the city code, or such vehicle is entirely covered by a tarpaulin or other opaque cover tailored to fit the contour of the vehicle and securely fastened in place against removal by wind or storm or other natural causes provided further; however, that such permitted storage is limited to two vehicles in number as to any residential premise within the city limits. It is further provided that the prohibition against vehicle storage herein set forth shall not apply on any premise within the city properly zoned for such use.

(Ord. 05-049-01, passed 5-5-1999) Penalty, see § 92.99

**§ 92.99 PENALTY.**

(A) Any person violating the provisions of § 92.01 shall be guilty of an offense.  
(Neb. RS 60-1911)

(B) Any person violating any of the provisions of § 92.03 shall be guilty of an offense and, upon conviction thereof, such person shall be fined in a sum not to exceed \$100, or be imprisoned in the county jail for a period of not to exceed six months, or be both so fined and imprisoned.

(C) Any person violating any of the provisions of § 92.02 shall be guilty of a misdemeanor and, upon conviction thereof, such person shall be fined in a sum not to exceed \$100. Each day that a violation of any of the provisions of § 92.02 continues shall constitute a distinct offense and shall be punishable as such.

(D) Any person violating any of the provisions of §§ 92.02 or 92.03 and convicted of said violation shall, in addition to any fines imposed by division (C) above, also be required to remove any junked, wrecked, dismantled or unlicensed vehicles from his or her premises. If the person violating this chapter does not remove the vehicles that caused the violation within seven days after conviction, then the city may remove said vehicles to a city impoundment facility after five days notice to the owner's last known mailing address. The City Clerk shall give notice to the last registered owner of the vehicle, to any lien holders of record and to the owner of the property from which said vehicle was removed within five days of impoundment. The notice shall state that the vehicle was removed by the city for violating the provisions of this chapter, and that if said vehicle is not claimed within two weeks from the date of the notice that the vehicle will be considered abandoned and title will vest in the city. Abandoned vehicles will be sold and the proceeds disposed of as set forth in § 92.01. Any person or creditor having a security interest of record claiming a vehicle in the designated city impoundment facility shall be required to pay the cost of removal and storage.

(Ord. 05-049-01, passed 5-5-1999; Ord. 2015-10, passed 5-4-2015)





## CHAPTER 93: FIRE PREVENTION AND PROTECTION

### Section

#### *Fire Regulations Generally*

- 93.01 Preservation of property
- 93.02 Disorderly spectator
- 93.03 Equipment
- 93.04 Interference
- 93.05 Obstruction
- 93.06 Assistance
- 93.07 Driving over hose
- 93.08 Traffic
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#### *Fire Prevention*

- 93.25 Fire Protection Code
- 93.26 Fire Code enforcement
- 93.27 Lawful entry
- 93.28 Violation notice
- 93.29 Fire limits defined
- 93.30 Fire limits materials; exceptions
- 93.31 Removal required
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- 93.33 Fire prohibited
- 93.34 Open burning ban; waiver

#### *Storage of Hazardous Materials*

- 93.45 Storage prohibited; exceptions

#### *Fireworks*

- 93.60 Fireworks defined
- 93.61 Permitted fireworks
- 93.62 Throwing firecrackers

- 93.63 Sale
- 93.64 Dates and times
  
- 93.99 Penalty

### ***FIRE REGULATIONS GENERALLY***

#### **§ 93.01 PRESERVATION OF PROPERTY.**

(A) The Fire Chief, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life or to prevent the spreading of fire to adjoining property.

(B) The Fire Chief may direct the municipal firefighters to remove any building, structure or fence for the purpose of checking the progress of any fire.

(C) The Fire Chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

(1993 Code, § 7-101)

#### **§ 93.02 DISORDERLY SPECTATOR.**

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

(1993 Code, § 7-102) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-908*

#### **§ 93.03 EQUIPMENT.**

It shall be unlawful for any person except the Fire Chief and the members of the Municipal Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the municipality.

(1993 Code, § 7-103) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-519*

**§ 93.04 INTERFERENCE.**

It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty.

(1993 Code, § 7-104) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-908*

**§ 93.05 OBSTRUCTION.**

(A) It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within 15 feet of the said hydrant.

(B) Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief or any member of the Fire Department, at the risk, cost and expense of the owner or claimant.

(1993 Code, § 7-105) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 60-6,166*

**§ 93.06 ASSISTANCE.**

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

(1993 Code, § 7-106) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-908*

**§ 93.07 DRIVING OVER HOSE.**

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

(1993 Code, § 7-107) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 60-6,184*

**§ 93.08 TRAFFIC.**

(A) Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm.

(B) No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach or park closer than 500 feet to any fire vehicle, or to any fire hydrant to which a hose is connected.

(C) Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department or emergency vehicles.

(1993 Code, § 7-108) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 60-6,183*

**§ 93.09 FALSE ALARM.**

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

(1993 Code, § 7-109) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 28-907, 35-520*

**§ 93.10 PEDESTRIANS.**

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed.

(1993 Code, § 7-110) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 28-908*

***FIRE PREVENTION***

**§ 93.25 FIRE PROTECTION CODE.**

Incorporated by reference into this code are the standards known as the National Fire Protection Association's Code 1, 2003 Edition. This Code shall have the same force and effect as if set out verbatim herein. Three copies of the Protection Code are on file with the Municipal Clerk and shall be available for public inspection at any reasonable time.

(1993 Code, § 7-201)

**Statutory reference:**

*Related provisions, see Neb. RS 18-132*

**§ 93.26 FIRE CODE ENFORCEMENT.**

(A) It shall be the duty of all municipal officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the Fire Chief. The Fire Chief shall grant or deny applications for any matter provided in the incorporated Code or by the governing body. Whenever the Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision to the Chief and the governing body within 30 days from the date of the decision appealed.

(B) The Chief shall have the power to modify any of the provisions of the Code hereby adopted upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Code; provided, that the spirit of the Code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

(1993 Code, § 7-202)

**§ 93.27 LAWFUL ENTRY.**

It shall be the duty of the owner, lessee or occupant of any building or structure, except the interiors of private dwellings, to allow the Fire Chief to inspect, or cause to be inspected, as often as necessary the said structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the municipal ordinances affecting the hazard of fire.

(1993 Code, § 7-203)

***Statutory reference:***

*Related provisions, see Neb. RS 81-512*

**§ 93.28 VIOLATION NOTICE.**

It shall be the duty of the owner, lessee or occupant of any building or structure that was lawfully inspected as hereinbefore prescribed, and who receives written or verbal notice of a violation of any of the provisions of the municipal ordinances to correct the condition that violates the said ordinance or ordinances within five days from the date of receipt of such notice.

(1993 Code, § 7-204) Penalty, see § 93.99

**§ 93.29 FIRE LIMITS DEFINED.**

The following described territory in the municipality shall be and constitute the fire limits: the south half of Block Five 5; Lots 13, 14, 15 and 16 in Block 6; Lots 13, 14, 15, 16 and 17 in Block 9; and

all of Blocks 11, 12, 13, 14 and 15, original Town of Alma, Nebraska; the south half of Block 9, and all of Block 16, First Addition to Alma, Nebraska; and Lots 7 and 8 in Block 5; Lots 8 and 9 in Block 8; Lot 4 in Block 9; and all of Blocks 1, 2, 3, 6 and 7, McDowell-Frieling Addition; all of Haeker Addition; all of Feese Subdivision; all of Meyer Addition; all of Kauk Addition; and all of Hillside Addition.

(1993 Code, § 7-205)

**Statutory reference:**

*Related provisions, see Neb. RS 17-550*

**§ 93.30 FIRE LIMITS MATERIALS; EXCEPTIONS.**

Within the aforesaid fire limits, no structure shall be built, altered, moved or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete or other such non combustible materials as will satisfy the Fire Chief that the said structure will be reasonably fire-proof; provided, however, that the foregoing shall not apply to any structure which is located at least 25 feet or more from any other structure within said fire limits.

(1993 Code, § 7-206) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-550*

**§ 93.31 REMOVAL REQUIRED.**

In the event that any wooden or combustible building or structure, or any noncombustible building which stands within the fire limits is damaged to the extent of 50% or more of its value, exclusive of the foundation, it shall not be repaired or rebuilt, but shall be taken down and removed within 60 days from the date of such fire or other casualty.

(1993 Code, § 7-207) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-550*

**§ 93.32 REPAIR REQUIRED.**

In the event that a building within the fire limits becomes damaged by fire, wind, flood, vandalism or any other cause, to the extent of less than 50% of its value, exclusive of the foundation, it shall be the duty of the owner, lessee or occupant to remove or repair the said building in accordance with the provisions of this subchapter. It shall be unlawful for any person to allow a building to stand in such damaged or decayed condition. Any such building shall be removed or repaired within 30 days after receiving notice to do so by the governing body.

(1993 Code, § 7-208) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-550*

**§ 93.33 FIRE PROHIBITED.**

It shall be unlawful for any person to set out a fire on the pavement, or near any curb, now built or hereafter to be built, within the municipality.

(1993 Code, § 7-209) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-556*

**§ 93.34 OPEN BURNING BAN; WAIVER.**

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

(B) The Fire Chief of the Municipal Fire Department or his or her designee may waive an open burning ban under division (A) above for an area under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Fire Chief or his or her designee to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief or his or her designee, and on a form provided by the State Fire Marshal.

(C) The Municipal Fire Chief or his or her designee may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief or his or her designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his or her intention to burn.

(D) The Municipal Fire Chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under division (B) above.

(E) The Municipal Fire Department may charge a fee, not to exceed \$10, for each such permit issued. This fee shall be remitted to the governing body for inclusion in the general funds allocated to the Fire Department.

(1) Such funds shall not reduce the tax requirements for the Fire Department.

(2) No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under division (B) above in the course of such state's or political subdivision's official duties.

(1993 Code, § 7-210) (Ord. 01-175-6, passed 1-17-1995) Penalty, see § 93.99

**Statutory reference:**

*Related provisions, see Neb. RS 81-520.01*

***STORAGE OF HAZARDOUS MATERIALS*****§ 93.45 STORAGE PROHIBITED; EXCEPTIONS.**

(A) The storage of certain materials in either permanent or mobile storage apparatus within the city's limits is not in the best interests of the citizens' health, safety and welfare.

(B) Such chemicals and materials as set out in 49 C.F.R. § 172.101 is made a part of this section by reference as though fully set out herein, are hereby declared and deemed to be hazardous.

(C) Such materials as listed in 49 C.F.R. § 172.101 shall not be stored within the limits of the city in either permanent or mobile storage apparatus.

(D) Any materials which have been customarily stored in the city as of the effective date of this section, for retail or wholesale business or agricultural use shall be exempt from this act; provided such materials are stored at the principal location the business was using for such storage at the time of the effective date of this act.

(1993 Code, § 7-301) Penalty, see § 93.99

***Statutory references:***

*Related provisions, see Neb. RS 17-549*

***FIREWORKS*****§ 93.60 FIREWORKS DEFINED.**

***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 common or special fireworks set forth by the United States Department of Transportation in 49 C.F.R.

(1993 Code, § 7-401)

***Statutory reference:***

*Related provisions, see Neb. RS 28-1241*

**§ 93.61 PERMITTED FIREWORKS.**

(A) It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a



noise, color wheels, lady fingers, not exceeding seven-eighths inch in length or one-eighth inch in diameter, and which do not contain more than 50 milligrams each in weight of explosive material.

(B) The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the governing body or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal.

(1993 Code, § 7-402) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-556, 28-1241, 28-1244, 28-1245*

**§ 93.62 THROWING FIRECRACKERS.**

It shall be unlawful for any person to throw any firecracker, or any object which explodes upon contact with another object; from or into a motor vehicle; onto any street, highway or sidewalk; at or near any person; into any building; or into or at any group of persons.

(1993 Code, § 7-403) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-556, 28-1242*

**§ 93.63 SALE.**

It shall be unlawful for any person to sell, hold for sale or offer for sale as distributor, jobber or retailer any fireworks without first obtaining a license from the State Fire Marshal for that calendar year. Licensed vendors shall only sell fireworks which have been approved by the State Fire Marshal and such permissible fireworks may be sold at retail only between June 24 and July 5 of each year.

(1993 Code, § 7-404) Penalty, see § 93.99

***Statutory reference:***

*Related provisions, see Neb. RS 28-1246 through 28-1250*

**§ 93.64 DATES AND TIMES.**

(A) Permitted fireworks may be discharged, exploded or used in the city each year on the following dates and times:

- (1) June 24 through July 3, 8:00 a.m. to 11:00 p.m.;
- (2) July 4 and July 5, 8:00 a.m. to 12:00 midnight; and
- (3) January 1, 12:00 a.m. to 1:00 a.m.

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(B) The discharge of fireworks on any dates or times other than as set out in this section shall require a permit from the city. Applicants may use only permitted fireworks and show that there will not be any substantial danger to people or to property. Factors that will be considered when reviewing an application will include, but not be limited to, where fireworks will be discharged, the procedures used to discharge the fireworks and the qualifications of the individuals discharging the fireworks.

(C) The provisions of divisions (A) and (B) above shall not apply to any fireworks used for public exhibition or display under authorization of the governing body.  
(Ord. 09-0512-1, passed 9-5-2012) Penalty, see § 93.99

**§ 93.99 PENALTY.**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.  
(1993 Code, § 7-501) (Ord. 10-0708-2, passed 10-7-2008)

## CHAPTER 94: PARKS AND RECREATION

### Section

#### *Municipal Parks*

- 94.01 Operation and funding
- 94.02 Injury to property

#### *Swimming Pool*

- 94.15 Operation and funding
- 94.16 Rules and regulations
- 94.17 Admission charge
- 94.18 Rentals
- 94.19 Unauthorized entry
  
- 94.99 Penalty

### **MUNICIPAL PARKS**

#### **§ 94.01 OPERATION AND FUNDING.**

(A) The municipality owns and operates the municipal parks and other recreational areas through the governing body.

(B) The governing body, for the purpose of defraying the cost of the care, management and maintenance of the municipal park may, each year, levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation.

(C) The revenue from the said tax shall be known as the Park Fund, and shall remain in the custody of the Municipal Treasurer.

(D) The governing body shall have the authority to adopt rules and regulations for the efficient management of the municipal parks and other recreational areas of the municipality.

(E) The governing body shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the governing body prior to the contractual agreement.

(1993 Code, § 3-601) (Ord. 2015-9, passed 4-1-2015)

***Statutory reference:***

*Related provisions, see Neb. RS 17-946 through 17-952*

**§ 94.02 INJURY TO PROPERTY.**

(A) It shall be unlawful for any person to maliciously or willfully cut down, injure or destroy any tree, plant or shrub.

(B) It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table or any other property of the municipal parks and recreational areas.

(C) No person shall commit any waste on or litter the municipal parks or other public grounds.  
(1993 Code, § 3-602) Penalty, see § 94.99

***SWIMMING POOL***

**§ 94.15 OPERATION AND FUNDING.**

(A) The municipality owns and manages the municipal swimming pool.

(B) The governing body, for the purpose of defraying the cost of the management, maintenance and improvements of the swimming pool may each year levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the municipality that is subject to taxation.

(C) The revenue from the said tax shall be known as the “Swimming Pool Fund”, and shall include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool.

(D) The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer.

(E) The governing body shall manage the swimming pool.

(F) The governing body shall have the power and authority to hire and supervise the swimming pool manager and such employees as they may deem necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation.

(1993 Code, § 3-701) (Ord. 2015-9, passed 4-1-2015)

***Statutory reference:***

*Related provisions, see Neb. RS 17-948, 17-951, 17-952*

**§ 94.16 RULES AND REGULATIONS.**

The governing body shall have the power and authority to enact bylaws, rules and regulations for the protection of those using the swimming pool and for the efficient management thereof. They may provide suitable penalties for the violation of such bylaws, rules and regulations subject to the review and supervision of the governing body.

(1993 Code, § 3-702) (Ord. 2015-9, passed 4-1-2015)

***Statutory reference:***

*Related provisions, see Neb. RS 17-949*

**§ 94.17 ADMISSION CHARGE.**

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

(1993 Code, § 3-703) (Ord. 2015-9, passed 4-1-2015)

***Statutory reference:***

*Related provisions, see Neb. RS 17-949*

**§ 94.18 RENTALS.**

The governing body shall have the authority to rent the municipal swimming pool to such organizations and other persons as they may in their discretion see fit, subject to the review of the governing body. The governing body shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such

fees and other costs shall be on file at the office of the Municipal Clerk and posted in a conspicuous place at the municipal swimming pool.

(1993 Code, § 3-704) (Ord. 2015-9, passed 4-1-2015)

***Statutory reference:***

*Related provisions, see Neb. RS 17-949*

**§ 94.19 UNAUTHORIZED ENTRY.**

It shall be unlawful for any person to make any unauthorized entry into the enclosed municipal swimming pool at any time during the daytime or nighttime hours. Any person found within the enclosed swimming pool area at any time other than the regular posted time when the same is open to the public shall be deemed to have made an unauthorized entry.

(1993 Code, § 3-705) Penalty, see § 94.99

**§ 94.99 PENALTY.**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 3-901) (Ord. 10-0708-2, passed 10-7-2008)

## CHAPTER 95: HEALTH AND PUBLIC NUISANCES

### Section

#### *General Nuisances*

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- 
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### **GENERAL NUISANCES**

#### **§ 95.01 NUISANCES GENERALLY DEFINED.**

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

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

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;

(3) Is offensive to the senses;

(4) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street or highway in the city;

(5) In any way renders other persons insecure in life or the use of property; or

(6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Ord. 9-407-1, passed 4-7-2009)

### § 95.02 SPECIFICALLY DEFINED.

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

***NUISANCE.*** The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts or omissions, places, conditions and things are hereby declared to be nuisances:

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

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

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

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

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

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



(7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, damaged or inoperable automobiles, trucks, travel trailers, mobile homes, busses, motor homes, motor cycles, marine equipment, including boats, outboard motors and boat trailers, or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity thereof;

(8) Any building or structure which is structurally unsound, as evidenced by conditions including, but not limited to, doors or windows which are incapable of being closed in their frames and secured, openings in walls, roof or foundation, other than doors, windows, chimneys or vents; leaning of the structure, sagging of the roof, or damage or deterioration which, if left uncorrected, creates an imminent or future risk of total or partial collapse of the building; any building which is used, offered, or intended for human habitation not having electrical, plumbing, sewage or heating systems which are operational and in compliance with applicable minimum standards as set by federal, state or municipal law, ordinance or regulation. Any building, billboard or structure with an external appearance which is unsightly to the extent it depreciates the value of the property in the vicinity or deters the sale, development or redevelopment of property in the vicinity. Any building, billboard or other structure which is abandoned, partially destroyed or any building or structure commenced and left unfinished, which said building, billboard or structure is either a fire hazard or a menace to public health or safety;

(9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind, or of any of the parts thereof, or tires, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

(10) Stagnant water permitted or maintained on any lot or piece of ground;

(11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowl of any kind are confined or on which is stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the city or are maintained and kept in such a manner to be injurious to the public health;

(12) It is declared a nuisance for the owner of any property to permit, allow or maintain any dead or diseased trees within the right-of-way of any street or alley within the corporate limits of the city;

(13) Appliances and furniture located outside of a structure in the front, back or side yard, on sidewalks or street rights-of-way; and/or

(14) All other things specifically designated as nuisances elsewhere in the municipal code. (Ord. 9-407-1, passed 4-7-2009; Ord. 2013-10, passed 1-23-2013)

### **§ 95.03 ABATEMENT PROCEDURE.**

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

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

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

(D) If within five days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant requests in writing a hearing with the City of Council, the Council shall fix a time and a place at which a hearing will be held.

(1) Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Council to show cause why such conditions should not be found to be a nuisance and remedied. The notice shall be given not less than seven nor more than 14 days before the time of the hearing.

(2) Upon the date fixed for the hearing and pursuant to the notice, the Council shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health or designated official.

(3) If, after consideration of all the evidence, the City Council finds that the condition is a nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the nuisance at once.

(4) If the owner or occupant refuses or neglects to promptly comply with the order to abate and remove the nuisance, the Council may have such work done.

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

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

(2) Whenever a nuisance exists as defined in this subchapter, the city may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law; or

(3) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgement in the case. (Ord. 9-407-1, passed 4-7-2009)

*Statutory reference:*

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

*Authority to impose fines, see Neb. RS 17-207 and 17-505*

**§ 95.04 JURISDICTION.**

The Mayor, City Council, designated representative of the city and law enforcement officials are directed to enforce this chapter against all nuisances. The jurisdiction of the Mayor, City Council, designated representative of the city, law enforcement officials and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the municipality within one mile thereof and all territory within the corporate limits.

(Ord. 9-407-1, passed 4-7-2009)

**§ 95.05 DEAD, OR DISEASED TREES.**

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

(2) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any. The city shall establish the method of notice by ordinance. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove the nuisance by filing a written appeal with the office

of the City Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by an elected or appointed officer as designated in the ordinance. The hearing officer shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have the work done to abate and remove the dead or diseased trees. If the owner or occupant of the lot or piece of ground does not request a hearing with the city within five days after receipt of such notice or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The city may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted as a special assessment.  
(Neb. RS 17-555)

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

(Ord. 07-218-02, passed 7-21-1998) (Ord. 2018-14, passed 7-2-18)

*Statutory reference:*

*Related provisions, see Neb. RS 18-1720*

### ***HEALTH REGULATIONS; CONTAGIOUS DISEASE***

#### **§ 95.20 HEALTH REGULATIONS.**

For the purpose of promoting the health and safety of the residents of the municipality, the Board of Health shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose. (1993 Code, § 4-101)

*Statutory reference:*

*Related provisions, see Neb. RS 17-121*

**§ 95.21 COUNTY HEALTH BOARD.**

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the municipality.  
(1993 Code, § 4-102)

**§ 95.22 DISEASE; CONTAGIOUS.**

(A) It shall be the duty of every physician called in to care for or treat a person afflicted with any contagious disease or any epidemic disease to make a report of the same within 24 hours after being called in for such care, to the Board of Health.

(B) In the event that no physician is in attendance, it shall be the duty of the person in charge, of the care of such ill patient to make a report within 24 hours from the time the disease-is recognized.  
(1993 Code, § 4-201)

***Statutory reference:***

*Related provisions, see Neb. RS 71-503*

**§ 95.23 SPREADING CONTAGION.**

It shall be unlawful for any person to spread disease willfully or negligently, or to cause the spread of the same.

(1993 Code, § 4-202) Penalty, see § 95.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-114, 17-123, 17-207*

**§ 95.24 MEDICAL ATTENTION REQUIRED.**

It shall be unlawful for the parent, guardian or other person responsible for any child to fail or neglect to secure proper medical treatment for the said child when he or she is afflicted with a contagious or infectious disease.

(1993 Code, § 4-203) Penalty, see § 95.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-114, 17-123, 17-207*

**§ 95.99 PENALTY.**

(A) *Generally.* Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed

guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.  
(1993 Code, § 4-501)

(B) *Abatement of nuisance.* Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(1993 Code, § 4-502)

(Ord. 9-407-1, passed 4-7-2009)

***Statutory reference:***

*Related provisions, see Neb. RS 18-1720, 18-1722*

## CHAPTER 96: STREETS, SIDEWALKS AND PROPERTY

### Section

#### *Municipal Property*

- 96.01 Definition
- 96.02 Maintenance and control
- 96.03 Sale and conveyance
- 96.04 Obstructions
- 96.05 Signs and canopies
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#### *Curb and Gutter Provisions*

- 96.60 Cutting curb
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- 96.99 Penalty

***MUNICIPAL PROPERTY*****§ 96.01 DEFINITION.**

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

***SIDEWALK SPACE.*** The portion of a street between curb lines and adjacent property lines. (1993 Code, § 8-101)

**§ 96.02 MAINTENANCE AND CONTROL.**

The governing body shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons within the municipality, and shall cause the same to be kept open and in repair, and free from nuisances.  
(1993 Code, § 8-102)

***Statutory reference:***

*Related provisions, see Neb. RS 17-567*

**§ 96.03 SALE AND CONVEYANCE.**

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

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

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

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



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

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

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

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

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

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

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

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

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

(1993 Code, § 8-103) (Ord. 5-034-15, passed 5-3-1994; Ord. 07-078-17, passed 7-7-1998)  
(Ord. 2018-15, passed 7.2.18)

*Statutory reference:*

*Related provisions, see Neb. RS 17-503, 17-503.01*

**§ 96.04 OBSTRUCTIONS.**

(A) Trees and shrubs, growing upon, or near, the lot line or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this subchapter. Said trees, shrubs and their roots may be removed by the municipality at the expense of the owner of the property upon which the tree or shrub is located should the owner fail, or neglect, after notice, to do so.

(B) It shall be unlawful for any person, persons, firm or corporation to obstruct, or encumber, by fences, gates, buildings, structures or otherwise, any of the streets, alleys or sidewalks.  
(1993 Code, § 8-104) Penalty, see § 96.99

*Statutory reference:*

*Related provisions, see Neb. RS 17-557.01*

**§ 96.05 SIGNS AND CANOPIES.**

(A) No person, firm or corporation shall erect, or maintain, any sign, signboard, poster or rigid canopy over any street, sidewalk, alley or on other public property without having first obtained a permit therefor. Permits for signs, canopies, posters and signboards shall be issued by the Municipal Clerk, subject to the approval of the City Superintendent, upon the payment of a fee set by resolution of the governing body. All signs and canopies extending over any public sidewalk, street, alley or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds, or falling from other causes.

(B) No sign or canopy shall be erected or maintained which extends over any public sidewalk, street, alley or other public place in such a location as to obstruct the view of any traffic light, sign or signal. Upon the written order of the governing body, any person owning or occupying the premise where such a sign, canopy, poster or signboard is located, shall cause the same to be removed within the time limit specified on such notice.

(1993 Code, § 8-105) Penalty, see § 96.99

**§ 96.06 OVERHANGING BRANCHES.**

The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight feet above the surface of said walk and at least 14 feet above the surface of said street. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights, or with the convenience of the public using said street or sidewalk, the governing body at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five days after having received a copy thereof from the City Superintendent stating that the municipality will remove said branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if said resolution is not complied with. In the event the property owner is a nonresident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1993 Code, § 8-106) Penalty, see § 96.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-557.01*

**§ 96.07 IMPROVEMENT DISTRICT; LAND ADJACENT.**

Supplemental to any existing law on the subject, a municipality may include land adjacent to such municipality when creating an improvement district, such as a sewer, paving, water, water extension or sanitary sewer extension district. The governing body shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby, except as provided in § 96.48.

(1993 Code, § 8-107)

***Statutory reference:***

*Related provisions, see Neb. RS 19-2427*

**§ 96.08 SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE.**

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

(B) (1) Except as provided in Neb. RS 19-2428 to 19-2431, the governing body shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found

especially benefitted thereby, whether or not such properties were previously assessed for the same general purpose.

(2) In creating such special improvement district, the governing body shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law.

(1993 Code, § 8-108)

*Statutory reference:*

*Related provisions, see Neb. RS 18-1751*

**§ 96.09 ACQUISITION OF REAL PROPERTY; APPRAISAL.**

(A) When acquiring an interest in real property by purchase or eminent domain, the municipality shall do so only after the governing body has authorized the acquisition by action taken in a public meeting after notice and public hearing.

(1993 Code, § 8-109)

(B) The municipality shall not purchase, lease-purchase or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of such property has been performed by a certified real estate appraiser.

(1993 Code, § 8-110)

(Ord. 01-175-7, passed 1-17-1995)

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

The governing body may grade, partially or to an established grade, change grade, curb, recurb, gutter, re-gutter, pave, gravel, re-gravel, macadamize, re-macadamize, widen, or narrow streets or roadways, resurface or re-lay existing pavement, or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the municipal corporate area and the area adjoining the municipality; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefitted in proportion to such benefits, except as provided in Neb. RS 19-2428 through 19-2431. The governing body may by ordinance create improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more types of the improvements authorized under this section in a single district in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefitted shall be ordered as provided in Neb. RS 17-510 to 17-512, except as otherwise provided in Neb. RS 17-509.

(Neb. RS 17-509) (Ord 2018-16, passed July 2, 2018)

***SIDEWALKS; REGULATIONS***

**§ 96.20 KEPT CLEAN.**

(A) It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud or other substance to remain upon said sidewalk.

(B) All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 9:00 a.m. the following day; provided, sidewalks within the residential areas of the municipality shall be cleaned within 24 hours after the cessation of the storm.

(1993 Code, § 8-201) Penalty, see § 96.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-557*

**§ 96.21 MAINTENANCE.**

(A) Every owner of any lot, lots or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon.

(B) In the event that the owner or owners of any lot, lots or lands, abutting on any street, avenue or part thereof shall fail to construct or repair any sidewalk in front of his, her or their lot, lots or lands, within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the governing body shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property.

(C) In the event the property owner is a nonresident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner.

(D) The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1993 Code, § 8-202) Penalty, see § 96.99

**Statutory reference:**

*Related provisions, see Neb. RS 17-557.01*

**§ 96.22 REPAIR.**

(A) The municipal official in charge of sidewalks may require sidewalks of the municipality to be repaired.

(B) Notice to the owners of property upon which such sidewalks in disrepair are located shall require within 48 hours from issuance of notice said owners to make arrangements to have the sidewalk repaired.

(C) Said repairs shall be completed within 21 days after issuance of said notice.

(D) No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed and in the event that such owner fails to repair, the municipality shall cause the repairs to be made and assess the property owner the expense of such repairs.

(E) In the event the property owner is a nonresident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice

required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner.

(F) The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(G) Any sidewalk removed must be replaced within Ninety days unless the City Council approves and extension or allows an exception.

(Ord 2017-6, passed 8-21-17) (1993 Code, § 8-203) Penalty, see § 96.99

**§ 96.23 CONSTRUCTION BY OWNER.**

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

(B) Said owner shall make application in writing for a permit and file such application in the office of the Municipal Clerk.

(1) The permit shall give a description of the lot, or piece of land along which the sidewalk is to be constructed.

(2) The official in charge of sidewalks shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade or elevation, the municipal official in charge of sidewalks shall submit the application to the governing body who shall determine whether the permit should be granted or denied.

(3) It shall be unlawful for any person to construct, or cause to be constructed said sidewalk at any other location, grade or elevation than so designated by the municipality.

(4) All sidewalks shall be built and constructed on the established grade, or elevation, and if there is no established grade, then on the grade or elevation indicated by the municipal official in charge of sidewalks.

(1993 Code, § 8-204) Penalty, see § 96.99

**§ 96.24 MUNICIPAL CONSTRUCTION.**

(A) The governing body may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the municipality. Notice of the governing body's intention to construct said sidewalk shall be given by the Municipal Clerk by publication of notice one time in a legal newspaper of general circulation in the municipality.

(B) A copy of said notice shall be personally served upon the occupant in possession of such property, or, when personal service is not possible, said notice shall be posted upon such premise ten days prior to the commencement of construction. The notice required in this section shall be prepared by the Municipal Attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

(C) Said notice shall notify the owner of the premise of the passage of the resolution ordering him or her to construct or cause to be constructed a sidewalk within 30 days after the date of publication and further that if he or she fails to construct the sidewalk or cause the same to be done within the time allowed, the municipality will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premise; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a nonresident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1993 Code, § 8-205)

***Statutory reference:***

*Related provisions, see Neb. RS 17-522, 17-523*

***STREETS; GENERAL PROVISIONS***

**§ 96.35 NAMES AND NUMBERS.**

(A) The governing body may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the governing body may require.

(B) It shall be the duty of the municipal official in charge of streets, upon the erection of any new building or buildings to assign the proper numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same.

(1993 Code, § 8-301)

(C) Whenever an area is annexed into the City of Alma, it shall be the duty of the municipal official in charge of streets to assign the names to the streets in the annexed area and assign numbers to any buildings or properties in the annexed area and give notice to the owner or owners and occupant or occupants of the same.

(Ord. 2017-1, passed 10-19-16)

**§ 96.36 CROSSINGS.**

(A) The governing body may order and cause to be constructed, under the supervision of the municipal official in charge of streets, such street, avenue and alley crossings as the governing body shall deem necessary.



(B) When a petition for the construction of any such crossings is filed by an interested resident in the office of the Municipal Clerk, said Municipal Clerk shall refer such application to the chief street official who shall investigate and make his or her recommendation to the governing body.

(C) Action by the governing body on such application, whether the application is approved or rejected, shall be considered final.

(1993 Code, § 8-302)

#### **§ 96.37 WIDENING OR OPENING.**

The governing body shall have the power to open or widen any street, alley or lane within the limits of the municipality; to create, open and improve any new street, alley or lane; provided, all damages sustained shall be ascertained in such manner as shall be provided by ordinance.

(1993 Code, § 8-303)

***Statutory reference:***

*Related provisions, see Neb. RS 17-558, 17-559, 76-704 through 76-724*

#### **§ 96.38 EXCAVATION.**

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the chief municipal street official authorizing such excavations.

(1993 Code, § 8-304) Penalty, see § 96.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-567*

#### **§ 96.39 DRIVING STAKES.**

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Chief Municipal Street Official.

(1993 Code, § 8-305) Penalty, see § 96.99

#### **§ 96.40 MIXING CONCRETE.**

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

(1993 Code, § 8-306) Penalty, see § 96.99

**§ 96.41 HARMFUL LIQUIDS.**

It shall be unlawful for any person to place or permit to leak in the gutter of any street, waste gasoline, kerosene or high lubricating oils, which damage or act as a solvent upon said streets. (1993 Code, § 8-307) Penalty, see § 96.99

**§ 96.42 HEAVY EQUIPMENT.**

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

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

(C) Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths of an inch between November 1, and March 15; provided, that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets.

(D) It shall be permissible to use a rubber tired crane with a fixed load when such vehicle will be transported on a state highway or on any road within the corporate limits of the municipality, the municipality in which the crane is intended to be transported has authorized a one-day permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, such vehicle is escorted by another vehicle or vehicles assigned by the municipality, and such vehicle's gross weight does not exceed the limits set out in Neb. RS 60-6,294, and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other condition tending to cause a vehicle to slide or skid.

(1993 Code, § 8-308) Penalty, see § 96.99

***Statutory reference:***

*Related provisions, see Neb. RS 60-6,250*

**§ 96.43 CONSTRUCTION ASSESSMENT.**

(A) To defray the costs and expenses of street improvements, as may be authorized by law, the governing body shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefitting from, the street, avenue, alley or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed or otherwise improved or repaired. The governing body sitting as the Board of Equalization shall review all such improvements in accordance with the procedure provided by law.

(B) All special assessments shall be made by the governing body at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes.

(C) Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in some legal newspaper published, or of general circulation, in the municipality at least four weeks before the same shall be held.

(D) In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as “special assessments for improvements” and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other municipal taxes and shall be certified to the County Clerk by the Municipal Clerk forthwith after the date of levy, for collection by the Treasurer of said county, unless otherwise specified. After it shall become delinquent said assessment shall draw interest at the legal interest rate per annum.

(E) In the event the property owner is a nonresident of the county in which the property lies, the municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(1993 Code, § 8-309)

***Statutory reference:***

*Related provisions, see Neb. RS 17-511, 17-524, 19-2428 through 19-2431, 45-104.01*

**§ 96.44 PETITION FOR IMPROVEMENTS.**

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way or the public grounds proposed to be improved, shall be presented and filed with the Municipal Clerk, petitioning therefor, the governing body shall by ordinance create a paving, graveling or other improvement district or districts, and shall cause such work to be done or such improvement to be made, and shall contract

therefor, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley or alleys, especially benefitted thereby in such district in proportion to such benefits, to pay the cost of such improvement. The governing body shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system and grading of streets. If the governing body should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

(1993 Code, § 8-310)

***Statutory reference:***

*Related provisions, see Neb. RS 17-510*

**§ 96.45 IMPROVEMENT DISTRICTS; OBJECTIONS.**

Whenever the governing body shall deem it necessary to make any improvements allowed by statute, the governing body shall by ordinance create a paving, graveling or other improvement district or districts, and after the passage, approval and publication or posting of such ordinance, shall publish notice of the creation of any such district or districts for six days in a legal newspaper of the municipality, if a daily newspaper, or for two consecutive weeks, if the same be a weekly newspaper. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street, streets, alley or alleys to be improved, shall file with the Municipal Clerk within 20 days after the first publication of said notice, written objections to the creation of such district or districts, said improvements shall not be made as provided in said ordinance: but said ordinance shall be repealed. If said objections are not filed against the district in the time and manner aforesaid, the governing body shall forthwith cause such work to be done or such improvement to be made, and shall contract therefor, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley or alleys especially benefitted thereby in such district in proportion to such benefits, to pay the cost of such improvement.

(1993 Code, § 8-311)

***Statutory reference:***

*Related provisions, see Neb. RS 17-511*

**§ 96.46 IMPROVEMENT OF STREETS ON CORPORATE LIMITS.**

The Mayor and Council shall have the power to improve any street or part thereof which divides the municipal corporate area and the area adjoining the municipality. When creating an improvement district including land adjacent to the municipality, the Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby.

(1993 Code, § 8-312)

***Statutory reference:***

*Related provisions, see Neb. RS 17-509*

**§ 96.47 IMPROVEMENT OF MAIN THOROUGHFARES.**

The Mayor and City Council shall have the power by a three-fourths vote of the governing body, to create by ordinance a paving, graveling or other improvement district and to order such work done upon any federal or state highway in the municipality or upon a street or route, designated by the Mayor and City Council as a main thoroughfare that connects, on both ends, to either a federal or state highway or a county road. The governing body shall contract therefor and shall have the power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby.

(1993 Code, § 8-313)

***Statutory reference:***

*Related provisions, see Neb. RS 17-512*

**§ 96.48 DEFERRAL FROM SPECIAL ASSESSMENTS.**

(A) Whenever the governing body of a municipality creates an improvement district as specified in § 96.07 which includes land adjacent to the municipality which is within an agricultural use zone and is used exclusively for agricultural use. the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms **AGRICULTURAL USE** and **AGRICULTURAL USE ZONE** shall have the meaning specified in Neb. RS 77-1343.

(B) Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the governing body of the municipality within 90 days after creation of an improvement district as specified in § 96.08.

(C) Any owner of record title who makes application for the deferral provided by this section shall notify the County Register of Deeds of such application in writing prior to approval by the governing body. The governing body shall approve the application of any owner of record title upon determination that the property: is within an agricultural use zone and is used exclusively for agricultural use; and the owner has met the requirements of this section.

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

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

(5) Change of zoning to other than an agricultural zone.

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

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

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

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

(1993 Code, § 8-314)

***Statutory reference:***

*Related provisions, see Neb. RS 19-2428 through 19-2431*

### ***CURB AND GUTTER PROVISIONS***

#### **§ 96.60 CUTTING CURB.**

(A) It shall be unlawful for any person to cut into any paving, curb or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the governing body therefor. Before any person shall obtain a permit, he or she shall inform the Municipal Clerk of the place where such cutting is to be done, and it shall be the chief street official's duty to inspect the place of entry into the paving, sidewalk or curb, before the same is cut.

(B) When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the governing body or the Municipal Engineer.

(C) When the applicant is ready to close the opening made, he or she shall inform the chief street official, who shall supervise and inspect the materials used and the work done in closing the opening.

(D) It shall be discretionary with the governing body to order the chief street official, under the supervision and inspection of the Municipal Engineer or the committee of the governing body on the streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit.

(E) The governing body may consent to the work of cutting and closing the paving to be done by the party holding such permit. Before any permit is issued by the governing body, the applicant for such permit shall deposit with the Municipal Treasurer a sum set by resolution of the governing body for all paving, curb or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the municipality for the purpose of replacing the paving, curb or sidewalk, in the event the work is done by the municipality.

(F) In the event the municipality elects to require the applicant to replace the paving, curb or sidewalk, the deposit shall be retained by the municipality until the work is completed to the satisfaction of the chief street official or of the committee of the governing body on streets and alleys.

(G) In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the municipality with a good and sufficient surety or sureties to be approved by the governing body in a sum set by resolution of the governing body.

(1993 Code, § 8-401)

*Statutory reference:*

*Related provisions, see Neb. RS 17-567*

#### **§ 96.61 DRIVEWAY INSTALLATION REQUIREMENTS WHEN THERE IS A CURB CUT ON MUNICIPAL STREETS.**

(A) Whenever a permit to cut the curb on a municipal street is granted pursuant to § 96.60, the grantee of the permit shall complete the installation of the driveway within 30 days or said permit shall be revoked.

(B) All driveways must be made of concrete, asphalt or materials that must be approved by the City Street Superintendent.

(C) At a distance three feet behind the inside edge of the curb the elevation of the driveway shall be at least as high as the top of curb.

(Ord. 06-191-1, passed 6-19-2001)

#### **§ 96.99 PENALTY.**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 8-501) (Ord. 10-0708-2, passed 10-7-2008)

