

CHAPTER 174: GENERAL REGULATIONS

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Editors Note: *Sections 91.20 through 91.25 of the NBC are revoked and replaced with §§ 174.100 through 174.103*

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ANIMALS

§ 174.001 MAXIMUM NUMBER OF DOG LICENSES.

(A) 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 said dog acquire a license for each such dog annually by or before the first day of January of each year.

(B) The tax shall be delinquent after January 31; provided, however, 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 and such tax shall be delinquent if not paid within ten days thereafter.

(C) Licenses shall be issued by the Municipal Clerk upon the payment of a license fee (tax) of \$6 for each dog. Said license shall not be transfereable and no refund will be allowed in case of death, sale or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, the name of the owner and address, and the name, breed, color and sex of each dog owned and kept by said owner.

(D) 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 and tag shall be issued until the certificate is shown.

(E) By increasing the license fee to \$6 for each dog per year, and to further provide that if the license fee is delinquent, that is, not paid before February 1 of each year then said license fee shall be

\$6 and a penalty charge of \$6 shall be added. In addition, this section shall provide that no possessor of any dog shall harbor within the corporate limits of the city more than three dogs over the age of six months.

(Prior Code, § 6-101) (Am. Ord. 514, passed 7-3-12)

Statutory reference:

Dog licenses, see Neb. RS 17-526, 54-603, 71-4412

§ 174.002 LICENSE TAGS.

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. 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. 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 of \$1 for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year.

(Prior Code, § 6-102)

Statutory reference:

License tags, see Neb. RS 17-526, 54-603

§ 174.003 BARKING AND OFFENSIVE.

(A) It shall be unlawful for any person to own, keep, or harbor any dog which, by making excessive noise, shall obstruct the use and enjoyment of property held by others in any neighborhood. The following definitions and conditions shall be applicable to enforcement of this section.

(B) *Definitions.* The following definitions shall be applied throughout this section. Where no definition is specified, the normal dictionary usage of the word shall apply.

EXCESSIVE NOISE. Any noise (i.e., barking, howling, yelping, or baying) produced by a dog which is so loud, continuous, or habitual as to disturb the peace and quiet of a neighbor.

OTHERS IN ANY NEIGHBORHOOD and **NEIGHBOR.** Shall apply to any individual residing in a residence structure which is within 100 yards of the property on which the animal is kept or harbored.

(C) It shall be unlawful for any person to own, keep, or harbor any dog which habitually chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalk, street, or alley in the municipality.

(D) Upon the signed, written complaint, filed with the Municipal Clerk, from one or more affected persons stating that they are willing to testify under oath that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, the Utilities Superintendent or person designated by the governing body, shall investigate the complaint and, if in his/her opinion the situation warrants, shall notify the owner to silence and restrain such dog. Any person found to violate this section shall be cited and punishable as provided under § 174.999. Nothing in this section shall be construed to prohibit an officer from filing a complaint for excessive noise based on his/her own observations or personal knowledge. The provisions of this section shall not be construed to apply to the Municipal Dog Shelter.

(Prior Code, § 6-110) (Ord. 462, passed 5-2-06) Penalty, see § 174.999

Statutory reference:

Barking, see Neb. RS 17-526

§ 174.004 RESTRICTION ON HARBORING OF ANIMALS.

(A) It is hereby declared to be a nuisance and unlawful for any person to keep, harbor, maintain or hold animals or fowl as defined by this section with the city limits. Animals as used herein are defined and meant to include the following: cows, calves, hogs (including pot bellied pigs), horses, mules, sheep, bulls, goats, any wild animal, livestock, and poultry. Fowl is defined herein and meant to include chickens, ducks, geese, turkeys or poultry. Provided, however, the term animals and/or fowl shall not include those animals normally housed indoors in a cage or when outside in a cage or tethered to a person or stationary object, which shall include, but not be limited to, hamsters, gerbils, rabbits, guinea pigs, and birds such as parrots, parakeets or similar type or sized birds.

(B) Any person violating any provisions of this section or failing or neglecting or refusing to comply with the provisions thereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall suffer the penalty as set forth in § 10.99 of the Nebraska Basic Code.

(Prior Code, § 6-203)

§ 174.005 ANIMAL WASTES.

The owner of every animal other than a service animal as defined in the Americans With Disabilities Act, 42 U.S.C. § 1201 *et seq.*, shall be responsible for the immediate removal and proper disposal of any excreta deposited by his or her animal(s) on public walks, recreation areas or private property.

(Prior Code, § 6-204)

PUBLIC AMUSEMENTS

§ 174.010 BOWLING.

(A) *Definition.* The following definition shall be applied throughout this section. Where no definition is specified, the normal dictionary usage of the word shall apply.

BOWLING ALLEY. Any room, building, or structure in which a game consisting of rolling a heavy ball down a wooden lane in an attempt to knock over wooden pins set upright at the opposite end of the lane is played whether, or not, it is in connection with any other business.

(B) *Regulation.*

(1) It shall be unlawful for any person or persons to own, maintain, or operate any bowling alley for profit without having first obtained a license from the municipality.

(2) Any person desiring a license to operate, maintain, or own a bowling alley shall file a written application with the Municipal Clerk. Said application form shall contain such information and documents or copies thereof, as the governing body deems necessary to determine whether to grant or reject the application.

(3) Upon determination that the granting of the license would be beneficial to the municipality, the governing body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of a fee set by resolution of the governing body. Said license shall be subject to revocation at any time for good and sufficient cause by the governing body upon the issuance of proper notice and a hearing if the licensee should make such a request.

(4) Any person or persons so licensed shall be subject to any bond, fees, or other rules and regulations as may be set by resolution of the governing body for the benefit of the municipality. (Prior Code, §§ 10-301 and 10-302)

§ 174.011 BINGO.

(A) *Regulations.*

(1) Games of bingo shall be conducted within the municipality in accordance with all laws of the municipality and the state if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the state to conduct the game of bingo shall obtain a written permit from the governing body before commencing operation of said game.

(2) Application shall be made to the Municipal Clerk for such permit. Said application form shall contain such information and documents or copies thereof as the governing body deems necessary to determine whether to grant or reject the application.

(3) Upon the determination that granting the application would be proper, the governing body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of a fee set by resolution of the governing body.

(4) Said license shall be subject to revocation at any time for good cause. Any person or persons, so licensed, shall be subject to any other fees, rules, and regulations which the governing body may designate.

(5) All permits so issued will automatically expire on March 31, following its issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of \$10. Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted.

(B) *Tax.* A tax of 5% of the gross receipts of each licensed association deriving revenue from the game of bingo is hereby imposed and levied against each such association and payable on or before the thirtieth day of the immediately succeeding calendar quarter to the Municipal Treasurer. Such tax shall be credited to the Municipal General Fund.

(C) *Quarterly report.* Each association conducting the game of bingo shall submit a written quarterly report to the Municipal Clerk covering the preceding calendar quarter on or before the thirtieth day of the immediately succeeding calendar quarter.

(D) *Incorporated regulation.* All applicable state statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this subchapter as if repeated verbatim herein, and violation of any state statute will be a distinct and separate offense against the municipality as well as against the state. Violators thereof shall be separately prosecuted by the municipality for each of such offenses, and if convicted, shall be deemed to be guilty of a misdemeanor.

(Prior Code, §§ 10-303 through 10-306)

Statutory reference:

Taxes, see Neb. RS 9-113

Bingo permits, see Neb. RS 9-115

Incorporated regulation, see Neb RS 9-101 through 9-123

§ 174.012 PIN BALL MACHINES.

(A) *Regulations.* It shall be unlawful for any person or persons to display for public use, own, maintain, or operate any pin ball machine, game or other mechanical amusement device which, upon the

insertion of a coin, may be operated for amusement, without first obtaining a license from the municipality. Application shall be made to the Municipal Clerk and shall contain all information and documents which the governing body may deem necessary to determine whether to grant or reject said application. Upon the determination that it would be proper to grant such application, the governing body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of the appropriate fee. Nothing herein shall be construed to authorize or legalize any machine or device prohibited by law. Any license so granted shall be subject to revocation by the governing body for good cause after proper notice has been served and the licensee has been allowed a hearing.

(B) *Gambling.* It shall be unlawful for any person to allow any patron of his or her business, in which pin ball machines, or other mechanical devices used for amusement purposes are present, to use said machines for gambling purposes.

(Prior Code, §§ 10-307 and 10-308)

Statutory reference:

Pin ball machines and gambling, see Neb. RS 28-945

§ 174.013 POOL AND BILLIARDS.

(A) *Definition.* The following definition shall be applied throughout this section. Where no definition is specified, the normal dictionary usage of the word shall apply.

POOL AND BILLIARDS. A game played on a table in which the object is to drive balls into the pockets, and which is conducted for profit or gain. All ordinances relating to pool and billiards shall apply to any such game whether or not it is conducted in connection with any other business.

(B) *Regulation.* It shall be unlawful for any person or persons, to own, maintain, or operate any game of pool or billiards for profit or gain without having first obtained a license from the municipality. Any person desiring a license to operate, maintain, or own a pool or billiard game or hall shall file a written application with the Municipal Clerk. Said application form shall contain such information and documents, or copies thereof, as the governing body deems necessary to determine whether to grant or reject the application. Upon the determination that the granting of the license would be beneficial to the municipality, the governing body shall immediately direct the Municipal Clerk to issue the license to the applicant upon the payment of a fee set by resolution of the governing body. Said license shall be subject to revocation at any time for good and sufficient cause by the governing body upon the issuance of proper notice, and a hearing if the licensee should make such a request. Any person or persons so licensed shall be subject to any bond, fees, or other rules and regulations as may be set by resolution of the governing body for the benefit of the municipality.

(C) *Operator's responsibility.* It shall be unlawful for the owner or operator of a pool and billiards establishment to allow or permit any disturbance of the peace, fighting, gambling, drunkenness, use of profanity, obscene books and pictures.

(Prior Code, §§ 10-309 through 10-311)

Statutory reference:

Regulating pool tables, Neb. RS 17-120

RAILROAD COMPANIES

§ 174.020 SAFE CROSSINGS.

It shall be the duty of every railroad company doing business in, or traveling through, the municipality to keep in a suitable, and safe condition the crossings and right-of-way in the municipality. If any such crossing shall at any time fall into disrepair and become unsafe, or inconvenient for public travel, the governing body may, by resolution, call upon the said company to make whatever repairs that it may deem necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail, or neglect to repair, and correct the said condition as aforesaid within 48 hours, neglect for each 24 hours thereafter shall be deemed, and is hereby made a separate, and distinct offense against the provisions herein.

(Prior Code, § 10-417)

Statutory reference:

Safe crossing, see Neb. RS 17-143 and 17-144

§ 174.021 SPEED.

It shall be unlawful for any railroad company, its employees, agents, or servants to operate a railroad engine, locomotive, or other vehicle on its tracks within or through the municipality at a speed in excess of 35 miles per hour.

(Prior Code, § 10-418)

Statutory reference:

Speed regulations, see Neb. RS 17-551 and 17-552

§ 174.022 OBSTRUCTING TRAFFIC.

It shall be unlawful for any railroad company, its employees, agents, or servants operating a railroad through the municipality to obstruct traffic on any public street, except in the event of an emergency, for a longer period at one time than ten minutes.

(Prior Code, § 10-419)

Statutory reference:

Obstructing traffic by trains, see Neb. RS 17-552

FIRE PREVENTION**§ 174.030 FIRE PROHIBITED.**

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

(B) The North Bend Rural Fire Department Chief, or his/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 said Fire Chief or his or her designee to a person desiring to conduct open burning shall be in writing, signed by said Fire Chief or his or her designee, and on a form prescribed by the State Fire Marshal. Such permit to permit open burning shall include, but not be limited to the following:

- (1) For fires conducted for the purpose of training Fire Department Personnel.
- (2) For the purpose of ceremonial practices or retirement of flags of the United States.
- (3) For destroying dangerous materials, diseased vegetation, or abatement of a fire hazard.
- (4) For land clearing on roads or other construction activity, or for vegetative clearing in use in an agricultural operation upon agricultural zoned land within the limits of the city.
- (5) For the purpose of destruction of materials after cleanup after a natural disaster.

(C) Notwithstanding the foregoing, it shall be unlawful to cause or allow any burning of household or yard waste materials, including, but not limited to, wood, paper, cardboard, rakings, leaves, grass, weeds, litter, garbage, refuse, or sweepings, either on public or private property within the limits of the city except as follows:

(1) For outdoor cooking contained in portable or permanent grills.

(2) For solely recreational purposes where no hazard is created. This includes, but is not limited to, bug candles, Tiki torches, and contained portable or permanent fire pits.

(3) For heating furnaces or fireplaces in buildings.

(4) When used in the regular course of trade of a business in a building.

(D) The permit available pursuant to division (2) above shall not change or alter the requirement for any person seeking a permit for open burning to obtain such a permit from the Nebraska Department of Environmental Quality or the State of Nebraska Fire Marshal as may be required by the laws of the state.

(E) No open burning which may be permitted pursuant to the terms of this section shall be conducted unless a responsible person is supervising such burning at all times and there is an adequate water supply available to put the fire out if necessary.

(F) The North Bend Rural Fire Department Chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under division (B).

(G) It shall be unlawful to keep, store or maintain in any building or on any premises, any household or yard waste, including, but not limited to, refuse, debris, rubbish, garbage, or other loose, combustible waste material, except recognized fuels, in such manner as will enhance the danger of fire on said premises, when located within the city limits of the city. This section shall not apply to household or yard waste temporarily stored or contained while waiting removal, such as, garbage collection so long as said storage does not create a nuisance or hazard.

(Ord. 452, passed 7-19-05)

§ 174.031 OPEN BURNING BAN; WAIVER.

Section 91.30(E) of the Nebraska Basic Code of Ordinances for Cities of the Second Class, regarding the open burning ban and waivers to this ban, shall be amended to read in its entirety:

(E) These funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under division (B) of this section in the course of that state's or political subdivision's official duties.

MUNICIPAL SWIMMING POOL**§ 174.040 OPERATION AND FUNDING.**

The municipality owns and manages the municipal swimming pool. 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. 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. The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer. The Board of Park Commissioners shall manage the swimming pool. The Board 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. All actions by the Board shall be under the supervision and control of the governing body.

(Prior Code, § 3-601)

Statutory reference:

Operation and expense of public pool, Neb. RS 17-948, 17-951 and 17-951

§ 174.041 ADMISSION CHARGE.

The Board of Park Commissioners 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.

(Prior Code, § 3-602)

Statutory reference:

Admission charges, see Neb. RS 17-949

§ 174.042 RENTALS.

The Board of Park Commissioners 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 Board 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.

(Prior Code, § 3-603)

Statutory reference:

Swimming pools, see Neb. RS 17-949

§ 174.043 RULES AND REGULATIONS.

The Board of Park Commissioners 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.

(Prior Code, § 3-604)

Statutory reference:

Rules and regulations for pools, see Neb. RS 17-949

STREETS AND SIDEWALKS

§ 174.055 MAINTENANCE OF SIDEWALKS.

(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. 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.

(B) In the event the property owner is a non-resident 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 non-resident 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.

(Prior Code, § 8-202)

Statutory reference:

Sidewalk maintenance, see Neb. RS 17-557.01

§ 174.056 GRADING, PAVING AND OTHER IMPROVEMENTS.

The city has the power to provide for the grading and repair of any street, avenue, or alley, and the construction of bridges, culverts, and sewers, to include snow removal from alleys and providing gravel and grading thereof. No street, avenue, or alley shall be graded, nor snow removed therefrom, or gravel provided thereto, unless such grading, snow removal, or providing of gravel is ordered to be done by the affirmative vote of two-thirds of the City Council.

(Ord. 492, passed 1-19-10)

Statutory reference:

Grading and repair of streets, see Neb. RS 17-508

TREES

§ 174.065 DISTANCES AND CLEARANCES FOR PLANTING.

(A) Street trees may be planted in the tree lawn where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from a sidewalk, driveway or street.

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

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

(D) Special permission must be obtained from the community forest manager when planting street trees within ten feet of any point on a line on the ground immediately below any overhead utility wire.

(E) All street trees should be planted at least 20 feet from street light pole.
(Prior Code, § 8-508)

MISCELLANEOUS FEES

§ 174.075 MISCELLANEOUS FEES.

The following fees shall be required:

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| Tree permit fee | \$0.00 — no fee |
| Sign/canopy permit | \$50.00 |
| Cut paving permit | \$50.00 |
| Fence Permit | \$15.00 |
| Building Permits: | |
| \$2,500.00 to \$3,000.00 | \$15.00 |
| \$3,001.00 to \$5,000.00 | \$25.00 |
| \$5,001.00 to \$7,000.00 | \$30.00 |
| \$7,001.00 to \$10,000.00 | \$35.00 |
| \$10,001.00 to \$15,000.00 | \$45.00 |
| \$15,001.00 to \$20,000.00 | \$55.00 |
| \$20,001.00 to \$25,000.00 | \$65.00 |
| \$25,001.00 to \$40,000.00 | \$75.00 |
| \$40,001.00 to \$60,000.00 | \$85.00 |
| \$60,001.00 to \$75,000.00 | \$100.00 |
| \$75,001.00 to \$100,000.00 | \$110.00 |
| \$100,001.00 to \$125,000.00 | \$125.00 |
| \$125,001.00 to \$150,000.00 | \$140.00 |
| \$150,001.00 to \$175,000.00 | \$150.00 |
| \$175,001.00 to \$200,000.00 | \$160.00 |
| For each \$1,000 over \$200,000 | Permit shall increase \$1.75 per thousand. |
| Photocopy fee | \$0.20 per page |
| Copies of city records | \$5.00 minimum + 1.00/page |
| Labor fee to clean up and/or mow nuisance areas | \$80.00/hr. |
| Impoundment fee | \$50.00 |
| Tobacco license fee | \$10.00 |

General Regulations

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| Peddler permit fee | \$50.00 + Certificate of Insurance |
| Auditorium rent (no alcohol) | \$200.00 |
| Auditorium rent (alcohol usage permitted) | \$300.00 + sponsor |
| Auditorium rent for extra day | \$75.00 per day |
| Auditorium use by public schools | \$50.00/practice/game |
| Permit to sell fireworks | \$100.00 + State license |
| Permit for trailer parks: | \$100.00 |
| Plumber's permit: | \$35.00 + Certificate of Insurance |
| Electrician's permit: | \$35.00 + Certificate of Insurance |
| Dog tags: | \$6.00 Delinquent February 1-\$12.00 |
| Swimming pool rates: | Family pass \$100.00 Individual pass \$45.00 Daily admission \$3.00 |
| Dump rates: | |
| Normal pickup loads: | \$3.00 (Grass, leaves, branches) |
| If there are logs on the pickup | \$5.00 (Per log, approx. 6 feet long) |
| Trucks with logs | \$35.00 per load, no matter how much (1 to whatever) |
| Trailer with logs | \$35.00 |
| Maximum due per load | \$35.00 |
| Logs are anything 8 inches in diameter or larger | |
| Street vendor permit | \$50.00 per month |
| Library Community Room | \$40.00 for non-profit organizations and private parties with a \$25.00 deposit |

(Ord. 488, passed 11-18-08; Am. Ord. 514, passed 7-3-12; Am. Ord. 536, passed 7-14-15)

PARKS AND RECREATION**§ 174.080 PUBLIC PARKS AND BALLFIELDS; HOURS CLOSED.**

(A) All public parks and ballfields of the City of North Bend, Nebraska, including, but not limited to, Groff Field and the North Bend City Park which includes the baseball field, swimming pool, and scout cabin, shall be closed to the public between the hours of 10:30 p.m. at night and 7:00 a.m. the following morning. No person or persons shall be permitted inside said parks and/or ballfields either on foot or in or on any type of vehicle during said hours. This prohibition shall not apply to a person or persons who are in the park or ballfield in conformity with a function or activity for which the use of said park or ballfield, swimming pool, or scout cabin has been authorized or scheduled by an organization who has been authorized by the Mayor and City Council to conduct activities at said location. In the matter of the public interest, the Chief of Police or local law enforcement may order any park or ballfield closed for a period of time as may be deemed necessary for the safety and good order of the City of North Bend, Nebraska.

(B) Any person in violation of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall suffer the penalty as set forth in § 10.99 of the Nebraska Basic Code.
(Ord. 497, passed 6-1-10)

MUNICIPAL AUDITORIUM**§ 174.090 OWNERSHIP.**

The Municipality owns and manages the Municipal Auditorium. The governing body, for the purpose of defraying the cost of the management, maintenance, and improvements on the Municipal Auditorium may each year levy a tax not exceeding the maximum limit prescribed the state law, on the actual valuation of all real estate and personal property within the municipality that is subject to taxation. The revenue from the said tax shall be known as the Auditorium Fund and shall include all gifts, grants, deed of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Auditorium. The Auditorium Fund shall at all times be in the custody of the Municipal Treasurer. The governing body shall have the power to hire and supervise such employees as they may deem necessary and shall pass such rules and regulations for the operation of the Auditorium as may be proper for its efficient management.

(Ord. 511, passed 4-3-12)

§ 174.091 RENTALS.

The governing body may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Auditorium, make a reasonable rental charge for the use by any person or organization of the Auditorium. Rental rates may be structured for classes of persons and organizations 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 and organizations for rental purposes.

(Ord. 511, passed 4-3-12)

§ 174.092 RULES AND REGULATIONS.

(A) The governing body shall have the power and authority to enact bylaws, rules, and regulations for the protection of the Municipal Auditorium and the safety of those using the Auditorium facilities. They may provide suitable penalties for the violation of such bylaws, rules, and regulations subject to the supervision and review of the governing body. All damage suffered by the Auditorium during any rental shall be assessed against the person or organization responsible for the rental thereof, or shall be deducted from the damage deposit which the governing body may in their discretion have required prior to the said rental. The governing body may require during any rental, persons deputized as Municipal Police to insure that the said rules and regulations, and the Municipal Code are not violated. The wages of such persons shall be set by the governing body and shall be paid prior to the beginning of the rental period. All rental fees, rules, and regulations shall be on file for public inspection at the office of the Municipal Clerk at any reasonable time.

(B) Full supervision of checking facilities, and receipts of revenue therefrom, shall remain with the governing body.

(C) When the building is furnished free, any extra expense, other than regular routine work, shall be borne by the party or parties using the building.

(D) Smoking in the auditorium is prohibited. All events at which liquor is served must have a sponsor approved by the governing body.

(Ord. 511, passed 4-3-12)

§ 174.093 RENTAL FEES AND TERMS.

The Mayor and Council by duly passed resolution shall set fees, terms and regulations for rental and use of the auditorium on such basis as they may determine not inconsistent with § 173.092.

(Ord. 511, passed 4-3-12)

*NUISANCES***§ 174.100 GENERAL PROVISIONS.**

(A) *Purpose.* The City of North Bend, by this subchapter, defines its authority to define, regulate, suppress and prevent nuisances, and to declare what shall be a nuisance for its jurisdiction and to provide services to abate same for the health and sanitation of the city.
(Neb. RS 18-1720)

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

NUISANCE.

(a) A 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:

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 municipality;
 5. In any way renders other persons insecure in life or the use of property;
 6. Essentially interferes with the comfortable enjoyment of life and property;
- or
7. Tends to depreciate the value of the property of others.

(b) *NUISANCE* includes, but is not limited to, the maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things of:

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. The emission of smoke, dust, fumes, gases, mists, odors, or polluted air from any source that is injurious or dangerous to human health and safety.

3. Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats or other insects and rodents, or which are foul or malodorous;
4. 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;
5. Dead animals or dead animals buried within the corporate limits;
6. 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 municipality;
7. Hauling any garbage, waste, or refuse matter through the streets, alleys, and public ways except when the same is loaded and conveyed in such a way when none of the contents shall be spilled;
8. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity. Nothing herein contained shall prevent the temporary retention of waste in receptacles nor the dumping of non-putrefying waste in a place and manner approved by the municipality;
9. 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;
10. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition in which flies or rats or other insects or rodents may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity;
11. Any unsafe building, unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are a fire hazard, or a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity;
12. 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 for the storing or leaving of any machinery or equipment used

by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

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

14. Dead or diseased trees within the right-of-way of streets within the corporate limits of the city, or on private property within the one mile zoning jurisdiction beyond the corporate limits;
(Neb. RS 17-555)

15. Undrained lots which hold or may hold stagnant water or any other nuisance;

16. Any condition which allows the perpetuating of insects and rodents;

17. Storage, accumulation, keeping, placing, or allowing to remain trash, garbage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any junk or abandoned motor vehicles, tractors, trailers, machinery, and equipment;

18. Any vehicle which is not properly registered, or is inoperable, wrecked, junked, or partially dismantled and remaining longer than 30 days on private property. This does 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 (such as a licensed salvage dealer, motor vehicle dealer or farm implement dealer), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition. **VEHICLE** means the same as defined by Neb. RS 60-136: a motor vehicle, all-terrain vehicle, minibike, trailer, or semitrailer. **PROPERLY REGISTERED** means as required by Nebraska Statutes;

19. Lots, pieces of ground, and the adjoining streets and alleys with growth of weeds or noxious growth;

20. All other things specifically designated as nuisances elsewhere in the City Code.
(Neb. RS 18-1720)
(Ord. 523, passed 11-19-13)

§ 174.101 ABATEMENT SERVICES AND NOTICE PROCEDURE FOR NUISANCES.

(A) *Nuisance Officer.* The city shall appoint an individual or organization to identify and enforce abatement of nuisances within the city. Said individual or organization shall be identified as the Nuisance Officer and said appointment shall be identified by resolution of the city.

(B) *Identifying nuisances.*

(1) The city may identify suspected nuisances, in which case the City Clerk, shall upon direction of the City Board, notify Nuisance Officer of the suspected location, person or persons in violation of any provision of this chapter and provide the address of such alleged nuisance.

(2) The city may request that the Nuisance Officer audit the city for nuisances in the city as defined by the City Code. The Nuisance Officer shall then view the property or area for any violations of the nuisances of the city. Nuisance Officer shall not go upon private property for said audit unless granted permission by the resident/owner of suspected property.

(C) *Confirming, documenting and presenting nuisances.* Nuisance Officer shall identify and confirm that in his or her opinion a nuisance exists as defined by federal, state or city law.

(1) Upon confirming that a nuisance appears to exist the Nuisance Officer shall document said nuisance with photographs and other evidence pertinent to the situation. Nuisance Officer will also obtain the legal description of the property and identify the current owners and, if possible, the occupants of the property upon which the nuisance exists.

(2) Nuisance Officer shall then present this information to the city governing board at a regular or special meeting for its confirmation that a nuisance exists as stated in § 174.102.
(Ord. 523, passed 11-19-13)

§ 174.102 ENFORCEMENT.

(A) *Enforcement procedures.* The nuisance, health and/or sanitation violation is brought to the governing body by the Nuisance Officer, or the Board of Health or upon the governing body's own action. The Governing Body then may declare by resolution a nuisance, health and/or sanitation violation. The nuisance, health, and/or sanitation ordinances may be enforced by:

- (1) City administrative procedures;
- (2) Penal prosecutions through the courts, and/or;
- (3) By civil procedures in the courts. Any of these procedures, or any combination of these procedures may be used to enforce the nuisance, health and/or sanitation ordinances of the city.

(B) *Administrative procedure.* The city may proceed with abatement of the nuisance, sanitation, and/or health violation with or without court involvement after the following procedure is followed:

(1) After a nuisance is declared the City Clerk notifies the Nuisance Officer to serve notice upon the violator(s).

(2) The Nuisance Officer shall prepare and serve notice which shall describe the found nuisance and state the required date of abatement and removal of the nuisance shall be accomplished. The notice shall also provide information as to how the interested parties may request a hearing before the governing body described in division (B)(4) below.

(3) The notice shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, said notice shall be given by a single publication in a newspaper of general circulation in the city or county of the city, and by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The date of service is determined by the later of certified mail receipt, personal service or publication date.

(4) The accused violator (owner/agent/occupant) may request in writing a hearing before the governing body of the city within five days after notice of violation is served or published. For tree nuisance violations the period for requesting a hearing is extended to 30 days after service.

(5) If no request for a hearing is received in the required time period, the governing body may cause a hearing to be held. This option is at the sole discretion of the governing body to be used in exceptional cases.

(6) If a hearing is requested, the City Clerk shall fix date of said hearing to be no later than 15 days from receipt of the request for the hearing. Notice of said hearing and with the date and time shall be served upon the agent, owner, and of the nuisance property by certified and regular mail.

(7) The hearing shall be a "show cause" hearing in which the agent, owner, occupant of the nuisance property (objecting property) shall provide evidence why the alleged condition should not be found to be a public nuisance and remedied. This hearing shall be heard before a quorum of the governing body. The presiding official of the governing body may conduct the hearing or said presiding

official may appoint another person as the hearing officer to conduct the hearing (said hearing officer may be the City Attorney or the Enforcement Officer). At the hearing the hearing officer shall mark and receive evidence which was presented when the finding of a nuisance was made, relevant evidence of the nuisance since that time, and evidence that the notices were properly given. The objecting party shall then provide its evidence. The rules of evidence are not required at said hearing, but all evidence must be relevant to the particular nuisance being heard. Testimony shall be under oath as administered by the hearing officer or any person so designated by the hearing officer, and the person providing the testimony is subject to the laws of perjury. Evidence may be submitted in writing by affidavit.

(8) No later than 14 days after the hearing and consideration of the evidence, the governing board may by majority vote rescind the resolution of violation. If the resolution of violation is not rescinded, it shall stand. Furthermore, if the objector or its designated agent fails to appear at the hearing or does not provide evidence, the nuisance shall stand. If the resolution is not rescinded, the governing board may, by resolution, extend the date that owner, occupant, lessee, or mortgagee shall abate and remedy the said public nuisance, but in no case shall this time exceed 60 days. The findings of the governing board shall be made no later than 14 days after the hearing and notice of its finding shall be served upon the objecting party by regular U.S. Mail within five days of the finding. The finding of this hearing is final, provided that an interested party or parties may appeal such decision to the appropriate court for adjudication.

(9) If the Nuisance Officer determines the nuisance is not remedied and abated within the time period designated, the city shall cause the abatement of the nuisance.

(10) If an interested party properly appeals to an appropriate court the findings and orders of the city, the city actions shall be stayed during until such time that the legal proceedings are completed or dismissed. In cases of appeal from an action of the city condemning real property as a nuisance or as dangerous under the police powers of the municipality, the owners of the adjoining property may intervene in the action at any time before trial.

(Neb. RS 19-710)

(C) *Penal court enforcement procedure.* If the declared nuisance, health, and/or sanitation are not abated within 15 days that the notice is served upon the owner and/or occupant, and the City Clerk has not received a request for hearing, the Nuisance Officer may cause issue of a citation for the code violation.

(1) The citation shall be prosecuted to the appropriate court by the City Attorney or other designated prosecutor for the city.

(2) A person or persons found guilty of these violations shall be guilty of a misdemeanor and fined up to \$500 per each offense.

(3) Each day that the nuisance as identified in the nuisance resolution and notice, is not abated shall be a separate offense and subject to a separate fine.

(D) *Civil court procedure.* The governing board may instruct by resolution the City Attorney to file a civil action for the abatement of a nuisance. Said civil suit may commence after 15 days notice has been served as stated in § 174.101, and may be filed and prosecuted at the same time any other enforcement procedure has commenced, terminated or in progress.

(Ord 523, passed 11-19-13)

§ 174.103 EXPENSES.

(A) When the city has effected the abatement of the nuisance, health and/or sanitation violation through either city employees or through contract with a third party and has incurred expenses and costs thereof, the actual cost thereof shall be charged to the owner, agent, occupant or person in possession, charge or control of such property. The billing shall be calculated at the actual cost of abating the nuisance plus a \$25 administrative fee.

(B) This billing shall be submitted to the last known address of the owner of the nuisance property as found in the County Treasurer's office by regular U.S. Mail.

(C) If said costs are not paid within two months after the work is done and one month after the expenses and costs are submitted to the owner and/or occupant, the city may levy and assess the expenses and costs upon the real estate benefitted by the actions in the same manner as other special assessments are levied and assessed, and the city may collect said assessments in the same procedure as other special assessments are collected. The city may also recover said expenses and costs of abating the nuisance, health and/or sanitation violation(s) in a civil action in the courts of the appropriate county in Nebraska.

(Ord. 523, passed 11-19-13)

§ 174.999 PENALTY.

The following fees and penalties shall be levied for violating § 174.003:

- (A) First offense: \$25.00
- (B) Second offense: \$50.00
Within 12 months of the first offense
- (C) Subsequent offenses: \$25.00 for each additional offense
Within 12 months of the first offense

(D) Subsequent or continued violations within 12 months of the second offense shall subject the owner or keeper of said dog to impoundment and permanent removal of the animal by a person having authority to impound such an animal, upon the direction of the governing body.
(Ord. 462, passed 5-2-06)