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CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: OBSTRUCTING AN OFFICER

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

SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER

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

SECTION 3-103: IMPERSONATING OFFICER

It shall be unlawful for any person to falsely pretend to be a law enforcement officer and perform any act in that pretended capacity. (Neb. Rev. Stat. §28-610)

SECTION 3-104: FALSE REPORTING

It shall be unlawful for any person to:

A. Furnish material information he or she knows to be false to any law enforcement officer or other official with the intent to instigate an investigation of an alleged criminal matter or impede the investigation of an actual criminal matter;

B. Furnish information he or she knows to be false, alleging the existence of (1) a need for the assistance of an emergency medical service or out-of-hospital emergency care provider or (2) an emergency in which human life or property is in jeopardy to any hospital, emergency medical service, or other person or governmental agency;

C. Furnish any information, or cause such information to be furnished or conveyed by electric, electronic, telephonic, or mechanical means knowing the same to be false concerning the need for assistance of a fire department or any personnel or equipment of such department;

D. Furnish any information he or she knows to be false concerning the location of any explosive in any building or other property to any person; or

E. Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an on-

going investigation and which actually results in causing or impeding such investigation.
(Neb. Rev. Stat. §28-907)

SECTION 3-105: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON

A. It shall be unlawful for any person to intentionally prevent or attempt to prevent a law enforcement officer, acting under color of his or her official authority, from effecting an arrest on said person or on another by (1) using or threatening to use physical force or violence against the said officer or another; (2) using any other means which creates a substantial risk of causing physical injury to the officer or another; or (3) employing means which require substantial force to overcome resistance to effecting the arrest; provided, this section shall apply only to those actions taken to resist arrest without the use of a deadly or dangerous weapon.

B. It is an affirmative defense to prosecution under this section if the officer involved was out of uniform and did not identify himself or herself as a law enforcement officer by showing his or her credentials to the person whose arrest was attempted.
(Neb. Rev. Stat. §28-904)

SECTION 3-106: CONCEALED WEAPONS

Any prohibited person or minor, as defined in Neb. Rev. Stat. §28-1201(10) and (11) respectively, who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, Bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon pursuant to Neb. Rev. Stat. §28-1201.01(8). (Neb. Rev. Stat. §28-1201) (Am. Ord. No. 1479, 6/12/24)

SECTION 3-107: DISCHARGE OF FIREARMS

It shall be unlawful for any person, except an officer of the law in the performance of his or her official duty, to fire or discharge any gun or pistol within the city; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Neb. Rev. Stat. §17-556)

SECTION 3-108: PROJECTILES; ARCHERY EQUIPMENT

A. It shall be unlawful for any person to discharge or release any instrument which propels a projectile, including but not limited to slingshots, paint ball guns, blow guns, air rifles, bows, crossbows, and the like, across or into any public place or on the private property of another person.

B. It shall be unlawful for any person to use archery equipment including crossbows within the corporate limits without having a plywood backstop, or a backstop

made of comparable material, with the minimum dimensions of 6 feet by 8 feet and which is 3/4 of an inch thick or at a depth which provides the necessary stopping power for the equipment being used.

C. No person shall throw any stone, snowball, or any other missile upon or at any vehicle, building, tree, or other public or private property, upon or at any person in any public or private way or place, or on enclosed or unenclosed ground.
(Neb. Rev. Stat. §17-207) (Am. Ord. No. 1122, 2/10/10)

SECTION 3-109: STALKING

A. Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

B. For purposes of this section, the following definitions shall apply:

1. "Harass" means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose;
2. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting, or otherwise communicating with the person;
3. "Family or household member" means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity, or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a casual relationship or an ordinary association between persons in a business or social context.

(Neb. Rev. Stat. §§28-311.02, 28-311.03, 28-311.04)

SECTION 3-110: CRIMINAL TRESPASS

It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so:

A. To enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or

B. To enter or remain in any place as to which notice against trespass is given by (1) actual communication to the actor; or (2) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (3) fencing or other enclosure manifestly designed to exclude intruders.
(Neb. Rev. Stat. §§28-520, 28-521)

SECTION 3-111: PUBLIC INDECENCY

It shall be unlawful for any person 18 years of age or over to perform, procure, or assist any other person to perform in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

A. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);

B. An exposure of the genitals of the body done with intent to affront or alarm any person; or

C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.
(Neb. Rev. Stat. §28-806)

SECTION 3-112: PUBLIC NUILITY; AIDING AND ABETTING

A. It shall be unlawful for any person to intentionally expose his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.

B. It shall be unlawful for anyone to aid, abet, assist, or direct another person to intentionally expose his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.

SECTION 3-113: WINDOW PEEPING

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

SECTION 3-114: CRIMINAL MISCHIEF

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$1,500.00. (Neb. Rev. Stat. §28-519)

SECTION 3-115: THEFT

It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever, whether by direct action or by deception. Any person who shall steal property of any kind, whether the same be property having a value of less than \$500.00, shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §§28-509 through 28-518)

SECTION 3-116: THREATS; ASSAULT IN THE THIRD DEGREE

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury to another person or threaten another in a menacing manner. It shall further be unlawful for any person to commit the above act in a fight or scuffle entered into by mutual consent. (Neb. Rev. Stat. §28-310)

SECTION 3-117: DISORDERLY CONDUCT

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself in such a way as to breach the peace shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §17-556)

SECTION 3-118: DISTURBING AN ASSEMBLY

It shall be unlawful for any person or persons to disturb, interrupt, or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. (Neb. Rev. Stat. §17-556)

SECTION 3-119: DISTURBING THE PEACE

It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. (Neb. Rev. Stat. §§17-556, 28-1322)

SECTION 3-120: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcasts or musical recordings in or upon any street, alley, or other public place in such a manner as to be audible to other persons more than 50 feet from the source. Persons operating such devices while participating in licensed or permitted activities, such as parades, shall not be deemed in violation of this section.

SECTION 3-121: ALCOHOL; MISREPRESENTATION BY MINOR

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other method in any tavern or other place where alcoholic liquor is sold. (Neb. Rev. Stat. §§53-180.01, 53-

180.05)

SECTION 3-122: ALCOHOL; MINOR IN POSSESSION

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to sell, dispense, consume or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways of the city or inside any vehicle while in or on any other place, including but not limited to the public streets, alleys, roads, or highways of the city or upon property owned by the city, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence. (Neb. Rev. Stat. §53-180.02)

SECTION 3-123: TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS; MINORS; VENDORS

A. *Definitions.* All terms used herein, including terms used in the Nebraska Revised Statutes that are incorporated herein by reference, shall retain their ordinary dictionary definition, unless such term is defined by Neb. Rev. Stat. §28-1418.01, or elsewhere in the Nebraska Revised Statutes.

B. *Harmony with Nebraska State Law.* This ordinance shall not abridge, conflict with or supplant any provision(s) of Neb. Rev. Stat. §28-1418, and to the extent of any conflict, Neb. Rev. Stat. §28-1418 shall govern.

C. *Prohibition and Penalty.* It shall be unlawful, and such action shall constitute a Class V misdemeanor, for any person(s) under 21 years of age to have in his or her possession, to use, to transport or carry or to purchase any cigarettes, cigars, chewing tobacco, or other forms of tobacco, or any electronic nicotine delivery systems or alternative nicotine products. The penalties for violating this ordinance shall follow Section 3-601 of this municipal code.

D. *Protocol.* If any person(s) violate(s) this ordinance, such person(s) shall have their prohibited items confiscated by the apprehending officer and shall be issued a citation. Such citation will contain, if the person(s) violating this ordinance are under 18 years of age, a parent or guardian name, address, phone number and relationship to the person(s) violating this ordinance, and if over 18 years of age, the name, address, and phone number of the person(s) violating this ordinance, as well as a "To Be Announced" (TBA) indication on the ticket for the court date. The Butler County Court shall then determine the court date.

E. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco.

F. Any person who shall sell, give, or furnish in any way any tobacco in any form

whatever or any cigarettes or cigarette paper, vapor products, or alternative nicotine products to any minor under 18 years of age is guilty of an offense.

(Neb. Rev. Stat. §§28-1418, 28-1419) (Am. Ord. Nos. 1457, 10/11/23; 1483, 6/12/24)

SECTION 3-124: LITTERING

A. Any person who deposits, throws, discards, scatters, or otherwise disposes of any litter, refuse, waste matter, or other thing on any public or private property or in any waters commits the offense of littering unless (1) such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or (2) the litter is placed in a receptacle or container installed on such property for such purpose.

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

C. "Litter" as used in this section means all rubbish, refuse, waste material, garbage, trash, debris, or other foreign substances, solid or liquid of every form, size, kind, and description but does not include the wastes or primary processes of farming or manufacturing.

(Neb. Rev. Stat. §§17-123.01, 28-523) (Ord. No. 1049, 6/13/07)

SECTION 3-125: POSTING NOTICES

No person in the city shall fasten any poster or other advertising device in any way upon public or private property in the city unless legally authorized to do so.

SECTION 3-126: POSTED ADVERTISEMENTS

It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted and the same remains of value.

SECTION 3-127: APPLIANCE OUTDOORS

A. It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children, whether on private or public property, unless the doors and lids have been removed or padlocked.

B. Upon a report being received by a city employee of a refrigerator, icebox, freezer or any other dangerous appliance being in the open and accessible to children, whether on private or public property, or upon observation by a David City Police Department officer of a refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or any other dangerous appliance being in

the open and accessible to children, whether on private or public property, the David City police shall serve notice to the owner of said refrigerator, icebox, freezer, or any other dangerous appliance to remove the same within five days. In the event that the refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or other dangerous appliance is not removed within the five days, the city will remove or cause to be removed said appliance(s) and assess the expense of the removal to the owner.

(Neb. Rev. Stat. §18-1720) (Am. Ord. No. 1477, 6/12/24)

SECTION 3-128: OBSTRUCTING WATER FLOW

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

SECTION 3-129: INJURY TO PLANTS AND TREES

It shall be unlawful for any person to purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any trees or their fruit or any shrub, plant, flower, or grass on any public or private property. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council and the written permit of the council in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

SECTION 3-130: DISEASED OR DYING TREES

A. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead, dying, or diseased trees within the right of way of streets or on private property within the corporate limits of the city. For the purpose of carrying out the provisions of this section, the utilities superintendent shall have the authority to enter upon private property to inspect the trees thereon.

B. Notice to abate and remove such nuisances and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city may have such work done and bill the property owner. If the owner fails to reimburse the city after being properly billed, 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 benefited in the same manner as other special taxes for improvements are levied or assessed.

C. In the event the property owner is a non-resident of the county in which the property lies, the city 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, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §§18-1720, 28-1321)

SECTION 3-131: PARKS; INJURY TO PROPERTY; LITTERING

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub; to injure or destroy any sodded or planted area; or to injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds. (Neb. Rev. Stat. §§17-563, 28-523)

SECTION 3-132: PROHIBITED FENCES

It shall be unlawful for any person to erect or cause to be erected and maintain any barbed wire or electric fence within the corporate limits of the city.

SECTION 3-133: HEDGES, VEGETATION OBSTRUCTING VIEW

The growing or maintaining or permitting the growing of hedges, corn, or other vegetation so tall as to obstruct the view of any private building, business building, street intersection, or private drive is declared to be a nuisance and is hereby prohibited.

SECTION 3-134: SEXUAL PREDATORS

A. *Definitions.* For purposes of this ordinance:

1. "Child care facility" means a facility licensed pursuant to the Child Care Licensing Act;
2. "Reside" means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;
3. "Residence" means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;
4. "School" means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;
5. "Sex offender" means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and
6. "Sexual predator" means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.

B. *Residency Restrictions.* It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

C. *Exceptions.* This ordinance shall not apply to a sexual predator who (1) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (2) established a residence before July 1, 2006, and has not moved from that residence; or (3) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.
(Neb. Rev. Stat. §§29-4016, 29-4017)

Article 2 – Dogs

SECTION 3-201: DEFINITIONS

“Animal control authority” shall mean the David City Police Department.

“Animal control officer” shall mean 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.

“Owner” shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog; and specifically in reference to a collarless dog, every person who shall harbor such a dog about his or her premises for the space of ten days shall be held to be the owner. (Neb. Rev. Stat. §§54-606, 71-4401)

SECTION 3-202: RABIES VACCINATION

Every dog shall be vaccinated against rabies pursuant to Nebraska law. Unvaccinated dogs acquired or moved into the city must be vaccinated within 30 days after purchase unless under the age for initial vaccination. The provisions of this ordinance with respect to vaccination shall not apply to any dogs owned by a person temporarily residing within this city for fewer than 30 days, any dog brought into this city for show purposes, or any dog brought into this city for hunting purposes for a period of fewer than 30 days; such dogs shall be kept under the strict supervision of the owner. (Neb. Rev. Stat. §71-4402)

SECTION 3-203: RABIES CERTIFICATE; LICENSING; FEE

A. Any person who shall own, keep, or harbor a dog over the age of six months within the city shall within 30 days after acquisition of the said dog acquire a license for each animal annually by or before January 1 each year. Application shall be made upon a printed form provided by the city, upon which the owner shall state his or her name and address and the name, breed, color, and sex of each dog owned and kept by him or her. A certificate stating 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. If the dog has been spayed or neutered, a statement signed by a veterinarian verifying the spaying or neutering must be presented.

B. Upon payment of the license fee, as set by resolution of the City Council, the city clerk shall issue to the dog owner a license certificate and a metallic tag for each animal so licensed. The city shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.25. The clerk shall retain 3¢ from the said fee and remit the

balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The 3¢ collected shall be credited to the general fund along with the license fees.

C. The said dog tax shall be delinquent from and after May 10; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days thereafter. It shall be the duty of the city clerk to issue tags of a suitable design that are different in appearance each year.

D. The metallic tag shall be properly attached to the collar or harness of every dog so licensed and shall entitle the owner to keep or harbor the said animal until December 31 of the following year. Said licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog.

E. Every service animal shall be licensed but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a license tax as prescribed herein. (Neb. Rev. Stat. §§17-526, 54-603)

SECTION 3-204: LIMITATION OF NUMBERS

It shall be unlawful for a person to temporarily or permanently own or harbor more than three dogs, three cats, or a combination thereof over six months of age at any given time in any residence or the yard thereto within the city limits. (Am. Ord. No. 1478, 6/12/24)

SECTION 3-205: LOST TAG

In the event that a licensing tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the city clerk shall issue a duplicate or new tag at no charge for the balance of the year for which the license tax has been paid. (Neb. Rev. Stat. §§17-526, 54-603)

SECTION 3-206: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag, or other city identification other than that issued by the city clerk; nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female dog or unneutered male dog with a license prescribed for a spayed female dog or neutered male dog. (Neb. Rev. Stat. §17-526)

SECTION 3-207: REMOVAL OF COLLAR OR HARNESS, LICENSE TAGS

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

SECTION 3-208: RUNNING AT LARGE; LICENSE REQUIRED

Any dog found running at large upon the streets and public grounds of the city with or without a collar or harness and license tag is hereby declared a public nuisance and shall be impounded in the city dog shelter as provided in Section 3-221. "Running at large" shall mean a dog was found off the premises of the owner and not under control of the owner or a responsible person by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526)

SECTION 3-209: DAMAGE; LIABILITY OF OWNER

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. 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. (Neb. Rev. Stat. §§18-1720, 54-601, 54-602)

SECTION 3-210: BARKING AND OFFENSIVE BEHAVIOR; COMPLAINT

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 city. Upon the written complaint of one or more affected persons from different households, filed within any 30-day period with the city clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, shall notify the owner to silence and restrain such dog. If the animal control officer is unable to locate the owner of the dog or if the owner fails to silence and restrain such dog, the animal control officer may take custody of and impound the dog. The owner of the dog shall be required to pay the impoundment fees as set forth in Section 3-221 before the dog shall be released to the owner. (Neb. Rev. Stat. §17-526)

SECTION 3-211: FEMALE IN SEASON

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the city while in season. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. (Neb. Rev. Stat. §17-526)

SECTION 3-212: FIGHTING

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting or by any gesture or word to encourage the same to fight. (Neb. Rev. Stat. §17-526)

SECTION 3-213: RABIES PROCLAMATION

It shall be the duty of the City Council, whenever in its opinion the danger to the public safety from rabid dogs or cats is great or imminent, to issue a proclamation ordering all persons owning or harboring any dog or cat 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 past. The dog or cat may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning or harboring any dog or cat to confine the same as herein provided. (Neb. Rev. Stat. §17-526)

SECTION 3-214: RABIES SUSPECTED; IMPOUNDMENT

Any dog suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions of this article 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 no fewer than ten days. 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. 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. If no signs of rabies are observed, the dog may be released from confinement. The Board of Health or its designee that provides for the impoundment of the dog shall charge impoundment fees as provided in Section 3-221(C) of this municipal code. The dog's owner shall pay all such impoundment fees within 72 hours of the dog's release. (Neb. Rev. Stat. §§ 71-4404, 71-4406, 71-4408(4), 71-4411) (Am. Ord. No. 1480, 6/12/24)

SECTION 3-215: DANGEROUS DOGS; DEFINITIONS

"Dangerous dog" shall mean any dog that, according to the records of the animal control authority:

- A. Has killed or inflicted injury on a human being of public or private property;
- B. Has killed a domestic animal without provocation; or
- C. Has been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination; such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- D. Notwithstanding the foregoing, a dog shall not be defined as a dangerous dog:
 - 1. If the threat, any injury that is not a severe injury, or the damage was sustained by a person who (a) at the time was committing a willful trespass as

defined in state statutes or any other tort upon the property of the owner of the dog; (b) at the time was tormenting, abusing, or assaulting the dog; (c) has in the past been observed or reported to have tormented or assaulted the dog; or (d) at the time was committing or attempting to commit a crime; or

2. If the dog is a trained dog assisting a law enforcement officer engaged in law enforcement duties.

“Domestic animal” shall mean a cat, a dog, or livestock.

“Potentially dangerous dog” shall mean any dog that, when unprovoked;

A. Inflicts a non-severe injury on a human or injures a domestic animal on either public or private property or chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

B. 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” shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures, cosmetic surgery, or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. Rev. Stat. §54-617)

SECTION 3-216: DANGEROUS DOGS; CONFINED; WARNING SIGN

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 at least one foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least 10 feet from any property line of the owner. 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. Each warning sign shall be no less than 10 inches by 12 inches and shall contain the words “Warning” and “Dangerous Animal” in high-contrast lettering at least 3 inches high on a black background. (Neb. Rev. Stat. §54-619)

SECTION 3-217: DANGEROUS DOGS; RESTRAINED

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the animal is restrained securely by a chain or leash. (Neb. Rev. Stat. §54-618)

SECTION 3-218: DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article. 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 article. 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. (Neb. Rev. Stat. §54-620)

SECTION 3-219: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION

If a dangerous dog belonging to an owner with a prior conviction under this section attacks or bites a person or another domestic animal, the owner shall be guilty of a misdemeanor. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. (Neb. Rev. Stat. §54-624)

SECTION 3-220: DANGEROUS DOGS; ADDITIONAL REGULATIONS

Nothing in this article shall be construed to restrict or prohibit the City Council from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Neb. Rev. Stat. §54-624)

SECTION 3-221: IMPOUNDMENT

A. It shall be the duty of the animal control officer to capture, secure, and remove in a humane manner to the city animal shelter any dog violating any of the provisions of this article. Every dog so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than five days after public notice has been given, unless reclaimed earlier by the owner.

B. Notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the city clerk within 24 hours after impoundment as public notification of such impoundment; provided, if the owner of the dog is known, the clerk may also attempt to personally notify the owner of the impoundment.

C. There shall be a boarding fee for each day the dog is impounded by the city, which shall be the responsibility of the owner. In addition, there shall be a general impoundment fee for the first impoundment of a dog during any license year and greater fees for the second and third impoundments during any license year. All such fees, together with proof that a dog is licensed in accordance with the provisions of this article, shall be paid before any dog is released. When all fees have been paid to the city, the dog may be returned to the owner. Said fees shall be as set by resolution of the City Council and kept on file in the office of the city clerk.

D. If the dog is not claimed at the end of the required waiting period after public notice has been given, the animal control authority may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, if a suitable home, in the judgment of the animal control authority, can be found for any such dog within the city, 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 article.

E. The city shall acquire legal title to any unlicensed dog impounded in the shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the animal control officer unless a suitable home can be found for such dog as provided in subsection (C) above.

(Neb. Rev. Stat. §17-548)

SECTION 3-222: INTERFERENCE WITH ANIMAL CONTROL

It shall be unlawful for any person to hinder, delay, or interfere with any animal control officer who is performing any duty enjoined upon him or her by the provisions of this article or to break open or in any manner directly or indirectly aid, counsel, or advise breaking into the animal shelter or any vehicle used for the collecting or conveying of dogs to the shelter. (Neb. Rev. Stat. §28-906)

Article 3 – Animals Generally

SECTION 3-301: LIVESTOCK PROHIBITED; ENCLOSURES

A. It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine, or other livestock unless a permit has been obtained from the City Council. To obtain such permit, the applicant must make application to the council, setting forth such information as required by the council to enable the members to decide if such livestock would constitute a health hazard or nuisance.

B. All pens, sheds, yards, or any other areas or enclosures for the confinement of animals allowed by permit 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.

(Neb. Rev. Stat. §17-547)

SECTION 3-302: CHICKENS AND DUCKS; PROHIBITED BIRDS

A. The keeping and raising of chickens and ducks shall be allowed in the City of David City subject to the following:

1. Prior to maintaining and raising any chickens or ducks within the city, an application shall be made to the city clerk on a form provided by him/her. If the application conforms to the following regulations, the clerk shall be authorized to issue the permit. A permit fee for up to six chickens and ducks shall be submitted with the application. Such fee shall be as set by resolution by the City Council and kept on file in the office of the city clerk.
2. No more than six chickens and/or ducks will be permitted on any property within the city. The minimum number of chickens and/or ducks is two for their social wellbeing.
3. Roosters, geese, hawks, turkeys and/or any other birds, including crowing hen chickens over the age of four months, are prohibited.
4. A predator-proof coop with a minimum of 2 square feet per chicken shall be provided. "Predator-proof" shall mean there must be a secure covering over the top to prohibit raccoons or any other varmints from getting inside the coop. The coop shall not be larger than 100 square feet and shall be located in the backyard of the owner's/renter's property. There shall also be a predator-proof enclosed run with a minimum of 5 square feet per chicken/duck. Chickens and ducks shall not be allowed to roam free outside of the coop and enclosed run. Chickens and ducks shall not be kept in a residence, on a porch, or in an attached garage for any purpose.

5. All coops and runs shall be kept clean and free from objectionable odors. Waste (feed, manure, litter) must be disposed of promptly in an environmentally responsible manner; piling of waste materials on the owner's/renter's property is not permitted. All waste must be housed in an insect- and vermin-proof container.
6. All chicken/duck food must be kept in an animal- and rodent-proof container.
7. The keeping of residential chickens/ducks is for the benefit of the owner/renter and cannot be used for a business or monetary gain, including the sale of eggs. No slaughtering of chickens or ducks can take place within city limits at any time. Dead chickens and ducks must be removed and disposed of within 24 hours.
8. If a resident currently has more than the allowed six chickens and/or ducks, any grandfathered chickens/ducks terminate at death and they cannot be replaced.

B. If a complaint is made to the city about noise, odor, or other violation(s) of this article, the David City Police Department shall promptly investigate the complaint and contact the owner/renter to give him/her the opportunity to correct the conditions causing such complaint. If the conditions are not corrected within 24 hours of the contact by the Police Department, the department may issue a citation to be filed with the Butler County Court for violation of this article.

C. The keeping of chickens or ducks within the city without a permit, failure to promptly dispose of chicken/duck waste or to maintain the chicken/duck coop or run in an odor-free condition, or failure to promptly dispose of dead chickens/ducks shall be a violation of this article and punishable as provided in Article 6 of this chapter.

(Am. Ord. Nos. 1371, 10/13/21; 1477, 6/12/24)

SECTION 3-303: RUNNING AT LARGE; LARGE ANIMALS; CHICKENS, DUCKS

A. 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 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.

B. It shall be unlawful for any person to allow chickens or ducks to run at large within the corporate limits, except in enclosed places on private property.
(Neb. Rev. Stat. §17-547) (Am. Ord. No. 1371, 10/13/21)

SECTION 3-304: IMPOUNDMENT

Animals or fowls maintained unlawfully or found running at large within the city shall be

captured by the animal control officer and governed in the manner prescribed for dogs.

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SECTION 3-305: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

The animal control authority as defined in Article 2 herein shall have the authority to kill any animal showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §71-4406)

SECTION 3-306: EXOTIC ANIMALS; PROHIBITED; DEFINED

A. It shall be unlawful for any person to own, sell, possess, keep, harbor, bring into the city, have in one's possession, act as a custodian, or have custody or control of any exotic animal except in compliance with this article. It shall be unlawful for a

person to breed an exotic animal. It is the intent of the city to protect the public against health and safety risks that exotic animals pose to the community and to protect the welfare of the individual animals held in private possession.

B. For the purposes of this section, the following definitions shall apply:

1. "Animal control authority" shall mean any agency designated by the mayor and council to enforce the animal control laws of the city.
2. "Exotic animal" shall mean one of any species of animals that are wild by nature including any or all hybrids which, because of habitat, mode of life, or natural instinct, are incapable of being completely domesticated and require the exercise of art, force or skill to keep them in subjection, whether bred in the wild or in captivity. Examples of wild or exotic animals include but are not limited to hawks; owls; mink; monkeys; deer; skunks; alligators; crocodiles; caimans; raccoons; opossums; any cat not a member of the family *Felis domestica*, including but not limited to tigers, lions, panthers, and lynxes; any dog not a member of the family *Canis familiaris*, including but not limited to wolves, foxes, and coyotes; all venomous and non-venomous snakes, including but not limited to Papuan python, Peruvian black-tailed boa, Guyana red-tailed boa, Suriname red-tailed boa, Argentine boa, green anaconda, yellow anaconda, Oenpelli python, amethystine python, bar-neck amethystine python, Boelen's python, Burmese python, tiger reticulated python, dwarf reticulated python, and African rock python. Also included as exotic animals are the following types of lizards: Gila monster, Mexican beaded lizard, Bengal monitor, Gray's monitor, black throat monitor, Gould's/sand monitor, Nile monitor, green iguana, water monitor, and lace monitor.
3. "Domestic animal" shall mean any of various animals domesticated by people to live and breed in a tame condition and shall include but are not limited to dogs, cats, ferrets, guinea pigs, rabbits and gerbils.
4. "Person" shall mean any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate or any other legal entity, or any officer, member, shareholder, director, employee, agent or representative thereof.
5. "Possessor" shall mean any person who owns, possesses, keeps, harbors, brings into the state, has in one's possession, acts as a custodian, or has custody or control of an exotic animal.
6. "Wildlife sanctuary" shall mean a non-profit organization described in Section 170(b)(1)(A)(vi), Internal Revenue Code, 1986, and its subsequent amendments, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned or displaced exotic animals

are provided care for their lifetime or released back to their natural habitat and, with respect to any animal owned by the organization, does not conduct any activity that is not inherent to the animal's nature; use the animal for any type of entertainment; sell, trade or barter the animal or its body parts; or breed the animal for any purpose.

C. The provisions of this section shall not apply to:

1. Licensed zoos and aquariums;
2. Duly incorporated non-profit animal protection organizations;
3. Animal control or law enforcement agencies or officers;
4. Licensed veterinary hospitals or clinics;
5. Any wildlife sanctuary as defined herein;
6. Any licensed or accredited research or medical institution;
7. Any licensed or accredited educational institution;
8. Any lawfully operated circus or rodeo; or
9. Any person exempted by state law consistent with Neb. Rev. Stat. Chapter 37, Game and Parks.

SECTION 3-307: EXOTIC ANIMALS; PERMITS; PROHIBITED ANIMALS

A. Any person owning an exotic pet with the exception of all venomous snakes; constricting snakes more than 7 feet in length; monkeys; deer; skunks; alligators; crocodiles; tigers; caimans; raccoons; any cat not a member of the family *Felis domestica*, including but not limited to lions, tigers, panthers and lynxes; and any dog not a member of the family *Canis familiaris* including but not limited to wolves, foxes and coyotes shall file for a permit with the city. All exotic pets listed above are not covered by this exception and are banned under this article. Each permit, which will be kept on file at the office of the city clerk, shall include the owner's name, address, phone number, type of animal in possession and the animal's length and weight. The city administrator and the city clerk shall sign all permits.

B. If the owner moves from the premises where he or she was a resident when the permit was issued, the owner shall then be responsible for filing for another permit with the city. If a new permit is not filed with the city within one month of the owner moving, he or she will no longer be allowed to keep the specified animal within the corporate limits of the city. This exception does not cover owners whose pet has died or has been sold.

SECTION 3-308: EXOTIC ANIMALS; ENFORCEMENT; INSPECTION

The animal control authority, its staff and agents, and any city, county or state law enforcement officer are hereby authorized and empowered to enforce the provisions of this article. The possessor of an exotic animal consistent with the provisions herein shall allow the animal control authority and its staff and agents, at any reasonable time, to enter the premises where the animal is kept to ensure compliance with this article.

SECTION 3-309: EXOTIC ANIMALS; CONFISCATION; DISPOSITION; PENALTY

A. The animal control authority or law enforcement officer may immediately confiscate any exotic animal if the animal is kept in contravention of this article. The possessor shall be liable for the costs of placement and the care of the exotic animal from the time of confiscation until the time of return to the possessor or until the time the animal has been relocated to an approved facility.

B. If an exotic animal is confiscated due to the animal being kept in contravention of this article, the possessor shall post a security bond or cash with the animal control authority in an amount sufficient to guarantee payment of all reasonable expenses expected to be incurred in caring and providing for the animal, including but not limited to the estimated cost of feeding, medical care, and housing the animal for a minimum of 30 days. The security bond or cash shall not prevent the animal control authority from disposing of the animal at the end of the 30-day period unless the person claiming the animal posts an additional security bond or cash with the animal control authority to secure payment of all reasonable expenses expected to be incurred in caring and providing for the animal for an additional 30 days and does so prior to the expiration of the first 30-day period. The amount of the security bond or cash shall be determined by the animal control authority and based on the current rate to feed, provide medical care, and house the animal.

C. If the confiscated animal possessor cannot be located or if a confiscated animal remains unclaimed, the animal control authority at its discretion may contact an approved facility and allow the animal to be adopted by an authorized person or facility or may euthanize the animal.

D. If the exotic animal cannot be taken up or recaptured safely by the animal control authority or if proper and safe housing cannot be found, the authority may immediately euthanize the animal.

E. An exotic animal may be returned to the possessor only if, to the satisfaction of the animal control authority, the possessor is exempt from this act or has a legal possession permit, has corrected the conditions resulting in the confiscation, and has paid the cost of placement and care of the animal while under the care and control of the authority.

F. Any person who shall fail, neglect, or refuse to comply with any of the provisions of the exotic animal regulations shall be in violation of the same and upon conviction of a first, second, third or fourth violation shall incur forfeiture of the animal plus an increasing fine for each violation. Such fines shall be as set by resolution by the City Council and kept on file in the office of the city clerk.

Article 4 – Nuisances

SECTION 3-401: PUBLIC NUISANCES PROHIBITED

It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the city to keep such real estate free of public nuisances. (Neb. Rev. Stat. §§17-207, 18-1720)

SECTION 3-402: GENERALLY DEFINED

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 either:

- A. Injures or endangers the comfort, repose, health or safety of others,
 - B. Offends decency,
 - C. Is offensive to the senses,
 - D. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the city,
 - E. In any way renders other persons insecure in life or the use of property, or
 - F. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (Neb. Rev. Stat. §18-1720)

SECTION 3-403: SPECIFICALLY DEFINED

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

- A. 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.
- B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats or which are foul or malodorous.
- C. 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.
- D. 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.

E. 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, 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.

F. 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 is kept in covered bins or galvanized iron receptacles.

G. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, appliances, scrap iron, tin, or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said 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.

H. Any building, structure, or other physical thing or condition in conflict with or in violation of any provision of the Property Maintenance Code. See abatement procedure in Article 5 herein.

I. All places used or maintained (1) as junkyards or dumping grounds; (2) for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind; (3) 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 (4) for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons in any residential designated area of the city.

J. Stagnant water permitted or maintained on any lot or piece of ground.

K. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

L. Any motor vehicle without a current license and not housed in a storage or other building, except as follows: 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 non-operating, 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 or 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.

M. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.

N. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.

O. 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 are stored tankage or any other animal or vegetable matter or on which any animal or vegetable matter, including grain, is being processed, when said places in which said animals are confined or said premises on which said vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the city or are maintained and kept in such a manner as to be injurious to the public health.

P. Weeds, grasses or worthless vegetation of 8 inches or more in height. Weeds shall include, but not be limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

Q. Abandonment of personal property on public property.

R. Emission of smoke from any source that is injurious or offensive to the residents of the city. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof is of such character and in a quantity which to any group of persons interferes with their health, repose, or safety, causes severe annoyance or discomfort, or is offensive and objectionable to normal persons and causes injury to real and personal property of any kind. The standards for air pollution established or adopted by the state shall be presumptive evidence as to when the air is deemed to be polluted.

S. Obstruction or impedance, without legal authority, of any river or collection of water or corruption and rendering unwholesome or impure any watercourse, stream, or other water. The standards for water quality established or adopted by the State of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted.

T. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §§18-1720, 28-1321) (Ord. No. 1049, 6/13/07)

SECTION 3-404: NOTICE PROCEDURE; ABATEMENT

A. When necessary, the mayor shall appoint a code enforcement officer for abatement of nuisances. Whenever the code enforcement officer determines that any weeds or grasses in excess of 8 inches are growing on property within the city, or other nuisance, as defined herein, is found on any property the following abatement procedure shall be followed:

1. The code enforcement officer shall document the weeds or nuisance by photographing the same. Once the weeds or nuisance has been documented, the city clerk shall give notice to mow, abate, and remove such weeds or nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service or certified mail with return receipt requested. If mailed, such notice shall be conspicuously marked as to its importance. Personal service shall be made by an officer of the David City Police Department or other person as designated by the mayor. Such notice shall contain a copy of the photograph of the weeds or nuisance, a copy of this ordinance, instructions on abatement of the weeds or nuisance, time in which such abatement shall take place, and possible penalties for failure to abate.
2. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground fails to comply with the order to mow or abate and remove the weeds or nuisance, the city shall again photograph the weeds or nuisance to document that abatement has not occurred.
3. If abatement has not occurred within the time prescribed, the code enforcement officer shall deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or acknowledged return receipt of the notice, and the photographs taken subsequent to the time to abate has elapsed to the prosecuting attorney for the city and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance or weeds in violation of these provisions.

B. In the alternative, the city may cause the weeds to be mowed or the nuisance to be corrected or removed. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either:

1. Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed, or
2. Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(Neb. Rev. Stat. §17-563) (Ord. Nos. 1250, 10/12/16; 1050, 6/13/07; 1477, 6/12/24)

SECTION 3-405: MOVING OF NUISANCE

If notification of abatement has been given for any nuisance act, duty, condition, omission, and/or thing pursuant to Section 3-404 herein, such notification shall attach to and follow the nuisance if the said nuisance is moved to a different location from the initial location where the notification of abatement within city limits or within the city's zoning jurisdiction was issued.

SECTION 3-406: SECOND OFFENSE

In the event that an owner or agent of any property with the city shall have received a notice to correct or abate a nuisance within the past 12 months and is again charged with maintaining a nuisance, as defined herein, the code enforcement officer shall document such offense as set forth above and request that the city attorney file a complaint against such owner, agent or occupant for maintenance of a nuisance with the county court.

SECTION 3-407: JURISDICTION

The mayor and city law enforcement officers are directed to enforce this city code against all nuisances. The jurisdiction of the mayor, city law enforcement officers, and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the city within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720)

SECTION 3-408: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the city, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §19-710)

SECTION 3-409: EMERGENCY

When the conditions which constitute a nuisance pose an immediate threat to the public peace, health, or safety, the mayor or the city law enforcement officers may order the nuisance abated immediately.

SECTION 3-410: REGISTRATION OF VACANT PROPERTY

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

1. "Commercial building" means any building used for commercial purposes. Examples of commercial buildings include, but are not limited to, offices, retail spaces, warehouses, and factories.

2. "Owner" means the person or persons shown to be the owner or owners of record on the records of the register of deeds.
3. "Program administrator" means the city clerk or his or her designee.
4. "Property" means either a residential building or a commercial building located within the corporate limits of the City of David City but does not include the property owned by the federal government, the State of Nebraska, or any political subdivision thereof.
5. "Residential building" means a house, condominium, townhouse, apartment unit or building, trailer house, or any other structure used or designed for use as a residence.
6. A property is "vacant" if any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that the property is vacant. Such conditions or circumstances may include but are not limited to:
 - a. Overgrown or dead vegetation, including grass, shrubbery, and other plantings;
 - b. An accumulation of abandoned personal property, trash, or other waste;
 - c. Visible deterioration or lack of maintenance of any building or structure on the property;
 - d. Graffiti or other defacement of any building or structure on the property;
 - e. Any other condition or circumstance reasonably indicating that the property is not occupied for residential purposes or being used for the operation of a lawful business.

B. The city shall create a vacant property registration database. The program administrator may utilize the chief of police and such additional city employees as may be necessary to administer the program with the approval of the employee's supervisor.

C. The owner of a vacant property must register such property with the program administrator if the property has been vacant for 180 days or longer. At the time of registration, the owner must submit a plan for occupancy for the property detailing how and when the property will be occupied or used.

D. The program administrator is hereby authorized and directed to make complaint-initiated inspections to determine the condition of property located within the corporate limits of the city in order to safeguard the welfare and safety of the general public and to ascertain that property as set forth in this title is maintained as required herein.

Personnel authorized to enforce this section may also initiate inspections to determine the condition of property based on their own personal observations which are not complaint-initiated.

E. The program administrator may but is not obligated to determine a property is vacant. The program administrator will provide written notice to the owner of any such determination by personal service or certified mail to the owner at the address maintained in the register of deeds' office at least ten days prior to registration of such property on the registration database. 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 property or building which is vacant.

F. Each registration shall expire at the end of 180 days unless removed from the registration database. If the building has not been removed from the registration database at the expiration of a registration herein, the owner or the city shall re-register the building pursuant to this section.

G. Either 180 days after the initial registration of a vacant property or 360 days after the property becomes vacant, whichever is earlier, the owner must pay a fee for a residential building or a greater fee for a commercial building. Such fees shall be as set by resolution by the City Council and kept on file in the office of the city clerk.

H. Every six months following the assessment of the initial registration fee, the owner of a vacant property must pay a supplemental registration fee for a residential building or a greater fee for a commercial building as long as the property remains vacant. Such fees shall be as set by resolution by the City Council and kept on file in the office of the city clerk. Unpaid vacant property registration fees shall become a lien on the applicable property upon the recording of a notice of such lien in the office of the Butler County Register of Deeds. The lien created under this section shall be subordinate to all liens on the applicable property recorded prior to the time the notice of such lien under this section is recorded. Interest as allowed by applicable Nebraska law shall also accrue unless reduced, waived or stayed by the program administrator.

I. An owner who, in good faith, advertises a vacant property for sale or lease is exempt from the above registration and fee requirements.

J. The following exemptions may apply to the vacant property registration and fee requirements:

1. A residential building used as a seasonal residence is exempt, provided the building is seasonally occupied;
2. A property damaged by fire, weather, explosion, act of God, or vandalism

within six months prior to becoming vacant is exempt from the requirements. Such damaged properties are no longer exempt after the six-month period;

3. A property under construction or renovation is exempt to the extent the construction or renovation is ongoing, with measurable progress and in compliance with all relevant building permits and codes;
4. A residential building where the owner is temporarily absent but who has demonstrated his or her intent to return is exempt unless it is subsequently determined the owner does not intend to return; and
5. Property which is subject to divorce, probate, or estate proceedings is exempt until the end of the respective proceeding.

K. Any subsequent owner of a vacant property subject to this ordinance assumes the obligations of the previous owner.

L. The program administrator may annually inspect the interior and exterior of a registered vacant property so long as the property remains on the vacant property registration database. An owner will be provided at least ten (10) days' notice prior to an annual inspection.

M. Upon written notice from the owner of a registered vacant property to the program administrator that the property is no longer vacant, the program administrator will within thirty (30) days inspect the interior and exterior of the property to confirm the property is no longer vacant. The owner must pay any supplemental registration fee that comes due during the period between the owner's written notice and the program administrator's inspection; but upon the program administrator's confirmation that the property is no longer vacant, the program administrator may refund the supplemental registration fee so occurring.

N. After the program administrator confirms a property is no longer vacant, the program administrator will remove the property from the vacant property registration database within seven (7) days. No supplemental registration fee will be assessed after confirmation that a property is no longer vacant, irrespective of the property's presence on the registration database.

O. Owners have the right to prior notice and to appeal decisions of the program administrator to the City Council. Any such appeal shall be taken by filing with the City Council, within ten (10) days after a notice of the decision has been mailed to the owner's last known address, a written statement setting forth the grounds for the appeal. The council shall set the time and place for a hearing on such appeal and notice shall be given to the owner by personal service or certified mail, postage prepaid, at

the owner's last known address. Any order of the City Council on such appeal may be appealed as permissible under law.

P. Failure to comply with the requirements of this ordinance is a violation of this Code and is subject to the penalties found in Article 7, Penal Provisions.

Q. The requirements and remedies in this section are supplemental and in addition to any other laws of the State of Nebraska and the ordinances of this Code relating to vacant property.

(Ord. No. 1463, 4/10/24)

§ 3-410 REGISTRATION OF VACANT PROPERTY

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

COMMERCIAL BUILDING. Commercial building means any building used for commercial purposes. Examples of commercial buildings include, but are not limited to, offices, retail spaces, warehouses, and factories.

OWNER. Owner means the person or persons shown to be the owner or owners of record on the records of the register of deeds.

PROGRAM ADMINISTRATOR. The program administrator means the City Clerk or his or her designee.

PROPERTY. Property means either a residential building or a commercial building located within the corporate limits of the City of David City, but does not include the property owned by the federal government, the State of Nebraska, or any political subdivision thereof.

RESIDENTIAL BUILDING. Residential building means a house, condominium, townhouse, an apartment unit or building, a trailer house, or any other structure used or designed for use as a residence.

VACANT. A property is vacant if any condition or circumstance that on its own, or in combination with other conditions or circumstances, would lead a reasonable person to believe that the property is vacant. Such conditions or circumstances may include, but are not limited to:

- (1) Overgrown or dead vegetation, including grass, shrubbery, and other plants;
- (2) An accumulation of abandoned personal property, trash, or other waste;
- (3) Visible deterioration or lack of maintenance of any building or structure on the property;

(4) Graffiti or other defacement of any building or structure on the property;

(5) Any other condition or circumstance reasonably indicating that the property is not occupied for residential purposes or being used for the operation of a lawful business.

(B) The city shall create a vacant property registration database. The program administrator may utilize the Chief of Police and such additional city employees as may be necessary to administer the program with the approval of the employee's supervisor.

(C) The owner of a vacant property must register such property with the program administrator if the property has been vacant for one-hundred eighty (180) days or longer. At the time of registration, the owner must submit a plan for occupancy for the property detailing how and when the property will be occupied or used.

(D) The program administrator is hereby authorized and directed to make complaint-initiated inspections to determine the condition of property located within the corporate limits of the City, in order to safeguard the welfare and safety of the general public and to ascertain that property as set forth in this title is maintained as required herein. Personnel authorized to enforce this section may also initiate inspections to determine the condition of property based on their own personal observations which are not complaint-initiated.

(E) The program administrator may, but is not obligated to, determine a property is vacant. The program administrator will provide written notice to the owner of any such determination by personal service or certified mail to the owner at the address maintained in the register of deeds' office at least ten days prior to registration of such property on the registration database. 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 property or building which is vacant.

(F) Each registration shall expire at the end of one hundred eighty (180) days unless removed from the registration database. If the building has not been removed from the registration database at the expiration of a registration herein, the owner or the City shall re-register the building pursuant to this section.

(G) One hundred eighty (180) days after the initial registration of a vacant property, or three-hundred sixty (360) days after the property becomes vacant, whichever is earlier, the owner must pay a fee of two-hundred fifty dollars (\$250) for a residential building or one-thousand (\$1,000) for a commercial building.

(H) Every six months following the assessment of the initial registration fee, the owner of a vacant property must pay a supplemental registration fee of five-hundred dollars (\$500) for a residential building or two-thousand (\$2,000) for a commercial building as long as the property remains vacant. Unpaid vacant property registration fees shall become a lien on the applicable property upon the recording of a notice of such lien in the Butler County Register of Deeds Office. The lien created under this section shall be subordinate to all liens on the applicable property recorded prior to the time the notice of such lien under this section is recorded. Interest as allowed by applicable Nebraska law shall also accrue unless reduced, waived or stayed by the program administrator.

(I) An owner who, in good faith, advertises a vacant property for sale or lease is exempt from the above registration and fee requirements.

(J) The following exemptions may apply to the vacant property registration and fee requirements:

- a. A residential building used on as seasonal residence is exempt provided the building is seasonally occupied;
- b. A property damaged by fire, weather, explosion, act of God, or vandalism within six months prior to becoming vacant is exempt from the requirements. Such damaged properties are no longer exempt after the six-month period;
- c. A property under construction or renovation is exempt to the extent the construction or renovation is ongoing with measurable progress and in compliance with all relevant building permits and codes;
- d. A residential building where the owner is temporarily absent, but who has demonstrated his or her intent to return is exempt unless it is subsequently determined the owner does not intend to return; and
- e. Property which is subject to divorce, probate, or estate proceedings is exempt until the end of the respective proceeding.

(K) Any subsequent owner of a vacant property subject to this ordinance assumes the obligations of the previous owner.

(L) The program administrator may annually inspect the interior and exterior of a registered vacant property so long as the property remains on the vacant property registration database. An owner will be provided at least ten (10) days' notice prior to an annual inspection.

(M) Upon written notice from the owner of a registered vacant property to the program administrator that the property is no longer vacant, the program administrator will within thirty (30) days inspect the interior and exterior of the property to confirm the property is no longer vacant. The owner must pay any supplemental registration fee that comes due during the period between the owner's written notice and the program administrator's inspection, but upon the program administrator's confirmation the property is no longer vacant, the program administrator may refund the supplemental registration fee so occurring.

(N) After the program administrator confirms a property is no longer vacant, the program administrator will remove the property from the vacant property registration database within seven (7) days. No supplemental registration fee will be assessed after confirmation a property is no longer vacant irrespective of the property's presence on the registration database.

(O) Owners have the right to prior notice and to appeal decisions of the program administrator to the City Council. Such appeal shall be taken by filing with the City Council, within ten (10) days after a notice of the decision has been mailed to the owner's last known address, a written statement setting forth the grounds for the appeal. The City Council shall set the time and place for a hearing on such appeal, and notice shall be given to the owner by personal service or certified mail, postage prepaid, at the owner's last known address. Any order of the City Council on such appeal may be appealed as permissible under law.

(P) Failure to comply with the requirements of this ordinance is a violation of this Code and is subject to the penalties found in section 98.999.

(Q) The requirements and remedies in this section are supplemental and in addition to any other laws of the State of Nebraska and the ordinances of this Code relating to vacant property.

Section 2. All ordinances or parts of ordinances passed and approved prior to the passage of this ordinance and which are in conflict with the provisions of this ordinance are hereby repealed.

Section 3. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof, not adjudged invalid or unconstitutional.

Section 4. This ordinance shall be in full force and effect and after its passage, approval and either posting or publication in pamphlet form as provided by law.

Article 5 – Dangerous Buildings

SECTION 3-501: DETERMINATION AND DEFINITIONS

Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

A. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

B. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;

C. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

D. Those damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the city;

E. Those which have become dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;

F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein;

G. Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes or other means of communication;

H. Those having parts thereof which are so attached that they may fall and injure persons or property;

I. Those that are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of the city because of their condition;

J. Those having been inspected by the County Health Department or a professional engineer appointed by the city which are, after inspection, deemed to be in violation of any provision of the health department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;

K. Those existing in violation of any provision of this article, any provision of the

Fire Code, any provision of the county health rules and regulations or other applicable provisions of city ordinances, including but not limited to the building code adopted by the city.

(Neb. Rev. Stat. §18-1720)

SECTION 3-502: BUILDING OFFICIAL

The building official, as appointed in Section 1-518, shall be the city official having the authority to carry out the duties as stated below. He or she shall, at the direction of the City Council:

A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the city for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the City Council the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

(Am. Ord. No. 1469, 5/8/24)

SECTION 3-503: STANDARDS

In the event that it is determined that any building or structure is unsafe or dangerous the following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated or demolished:

A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired;

B. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated;

C. In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this city, or statute of the state, it shall be demolished. (Neb. Rev. Stat. §§17-136, 15-905, 18-2107)

SECTION 3-504: UNLAWFUL MAINTENANCE

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the city or within its zoning jurisdiction. (Neb. Rev. Stat. §28-1321)

SECTION 3-505: NUISANCE; PROCEDURE

If the specially designated building official or his representatives or professional engineer finds that a building or structure is unsafe or dangerous and a nuisance, the City Council shall:

A. Notify the owner, occupant, lessee, mortgagee, agent or other persons having an interest in the building or structure that it has been found to be an unsafe or dangerous building; the notice will indicate whether the owner must vacate, repair or demolish the building or structure;

B. Set forth in the notice a description of the building or structure deemed unsafe or dangerous, accompanied by a statement of the particulars which make the building or structure unsafe or dangerous and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable;

C. Direct a city employee to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall set forth that the building or structure is unsafe or dangerous for occupancy and use; and

D. File a copy of such determination or resolution in the office of the register of deeds of the county to be recorded. No fee shall be charged for such recording or for the release of such recording.

(Neb. Rev. Stat. §18-1722.01) (Am. Ord. No. 1469, 5/8/24)

SECTION 3-506: FAILURE TO COMPLY

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect or refuse to comply with the notice by or on behalf of the city to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, and fails to request a hearing on such determination, the city may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the City Council, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. (Neb. Rev. Stat. §18-1722)

SECTION 3-507: DISPUTES

A. In the event that the owner, occupant, lessee, mortgagee, agent or other per-

son having an interest in the building or structure disagrees with or disputes the information contained in the notice, such person shall notify the city clerk with a written statement that sets forth the reasons for the disagreement or dispute and the relief requested. This written request shall be made within 14 days of mailing of the notice as provided herein. If written notice is received by the city clerk within 14 days of mailing or delivery of notice, a hearing shall be held before the City Council, either at a special meeting or at a regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place and date of such hearing.

B. The hearing before the City Council shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence and may examine and copy, at his or her own expense, and not less than three business days before the hearing, the records of the city regarding the inspection and notice. The City Council need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the council of any further procedures before action is taken as set forth in a notice.

SECTION 3-508: APPEAL

Any person aggrieved by the decision of the City Council may appeal the decision to the District Court. This appeal shall and must be taken within 30 days of the pronouncement of the council's decision.

SECTION 3-509: IMMEDIATE HAZARD

In the event the building constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, the specially appointed building official or professional engineer designated by the City Council shall report such facts to the council. Upon receipt of such report the city, by and through the council, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments. (Am. Ord. No. 1469, 5/8/24)

Article 6 – Cats

(Ord. No. 1464, 4/10/24)

SECTION 3-601: INTENT

The purpose and intent of this article is to decrease the City’s undomesticated cat populations by humanely controlling reproduction and without removing cats from city limits in accordance with the Trap, Neuter, and Return (TNR) population control method for the betterment of the community.

SECTION 3-602: ANIMAL CONTROL; DEFINITION

“Animal Control” shall mean the David City Police Department, its agents, assigns, or contracted agents.

SECTION 3-603: FREE-ROAMING CAT; DEFINITION

“Free-roaming cat” shall mean any cat found roaming freely outside of any home or the control of any person for any length of time.

SECTION 3-604: CAT OWNER; DEFINITION

“Cat owner” shall mean any person who confines a cat(s) inside a residence or property structure for any length of time and such cats shall be deemed personal property of said cat owner.

SECTION 3-605: UNDOMESTICATED CAT; DEFINITION

“Undomesticated cat” shall mean any cat that is not confined inside a residence or property structure that does not have a generally known or reasonably discoverable owner.

SECTION 3-606: UNDOMESTICATED CAT CAREGIVER; DEFINITION

“Undomesticated cat caregiver” shall mean any person that provides food, water, or shelter to free-roaming cats and does not confine cats inside a residence or property structure for any length of time.

SECTION 3-607: TRAP-NEUTER-RETURN (TNR); DEFINITION

“Trap-Neuter-Return” (TNR) shall mean the process of humanely trapping, sterilizing, vaccinating for rabies, ear tipping, and returning undomesticated cats to the location where trapped. Animal Control shall obtain consent of the landowner before entering private property for this purpose.

SECTION 3-608: CAT HOARDING; DEFINITION

“Cat hoarding” shall mean the accumulation of a number of cats such that it overwhelms a person’s ability to provide minimum standards of care, which include nutrition, sanitation, shelter, veterinary care, and socialization causing disease, starvation, or death of cats confined and residing within a property residence or structure.

SECTION 3-609: FREE-ROAMING CAT; SPAY AND NEUTER

All free-roaming cats within city limits shall be surgically spayed or neutered by a licensed veterinarian and rabies vaccinated. This shall be done voluntarily by the cat owner or by Animal Control through the TNR process.

SECTION 3-610: OWNED CATS NOT FREE ROAMING; SPAY AND NEUTER

Cat owners shall spay and neuter each cat they own within four months of age. This provision shall not apply if the procedure would endanger the health of the cat, if the owner is a state-licensed breeder, if the cat temporarily resides in a foster home or is used in show and performance competitions, or if a veterinarian does not recommend spay and neuter surgery until later in the cat’s life for a medical reason as evidenced by said veterinarian’s statement. The cat owner must provide documentation for all other exemptions.

SECTION 3-611: RETURN OF CATS SPAYED AND NEUTERED THROUGH THE TNR PROCESS

Animal Control shall, after completion of the TNR process, return all cats to the area they were captured, except for cats needing additional medical attention for illness or injury. Cat owners must provide documentation sufficient to evidence ownership as Animal Control determines for the return. If a cat has no identifiable owner, it shall be held for a five-day holding period; and if no owner claims the cat, it shall be taken to the Humane Society or to some other suitable owner. Undomesticated cat caregivers may request cats for which they provide care to be relocated in this manner for the health and safety of the cats. Cat owners shall pay all applicable boarding, veterinary and licensing fees for this process.

SECTION 3-612: INTERFERENCE WITH TNR PROCESS

Any person found to be removing free-roaming cats from city limits for the sole purpose of dumping said cats in the country, concealing unaltered cats for the purpose of reproduction, releasing cats from traps, or tampering with, stealing, damaging, or destroying TNR equipment shall be guilty of a Class V Misdemeanor. Persons found in violation of this provision shall face a \$25 fine, plus equipment replacement cost if applicable, for each offense.

SECTION 3-613: LICENSING; FEES

A. *License.* Any person owning a cat over the age of six (6) months within the city shall, within thirty (30) days after acquisition of the said cat, acquire a license for each cat by or before May 1 each year. The cat owner shall renew this license annually.

B. *License Application.* At the time of license application, the cat owner must provide a certificate indicating the cat has been spayed or neutered and received a rabies vaccination, and, on printed forms of the city, the owner's name and address and the name, breed, color, sex, and sterilization status of each cat for which the license application is for.

C. *Certificate.* Upon payment of the license fee, the city clerk shall issue to the owner of a cat a license certificate and metallic tag for each cat so licensed. The metallic tag does not need to be attached to the collar and worn by said cat. The city clerk may issue replacement metallic tags if one is lost or destroyed upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein and that the cat own is not delinquent on the cat's licensing fees. The city clerk shall design or cause to be designed a new metallic tag each year in order to differentiate between years of issuance.

D. *License Fee.* The cat owner shall pay to the city clerk a license fee as set by resolution by the City Council for each cat at the time of license application. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed cat. The license fee shall be delinquent from and after May 1; provided, the owner of any cat brought into or harbored within the corporate limits after May 1 of any year shall be liable for the payment of the cat tax levied herein and such tax shall be delinquent if not paid within ten (10) days thereafter. All license fees and collections shall be immediately credited to the general fund after the City remits the fee imposed by Neb. Rev. Stat. §54-603(3) to the Nebraska Department of Agriculture. (Neb. Rev. Stat. §§ 54-603, 17-526)

E. *Service Animals.* The license fee provided in this section does not apply to cats that are validly registered as service animals. (Neb. Rev. Stat. § 17-526)

SECTION 3-614: WRONGFUL LICENSING

It shall be unlawful and a Class V misdemeanor for any cat owner to permit or allow his/her/its cat(s) to wear a fake metallic tag, to create or possess a fake cat license, or to otherwise utilize any other evidence of licensure than that issued by the city clerk for cats.

SECTION 3-615: KILLING AND POISONING

It shall be unlawful and a Class IV misdemeanor to kill, or to administer or cause to be administered, poison of any sort to a cat, or in any manner to injure, maim, or destroy,

or in any manner attempt to injure, maim, or destroy, or to place any poison or poisoned food where the same is accessible to a cat.

SECTION 3-616: BITES

Any owned cat not vaccinated in accordance with the provisions of this Article that bites any human, causing an abrasion of the skin, shall be confined for rabies observation no fewer than ten (10) days by the owner. If the owner cannot confine the cat for ten days, the cat will be impounded and held for observation by animal control. If upon examination by a veterinarian the cat has no clinical signs of rabies at the end of such confinement, it may be released to the owner after rabies vaccination, proper licensing, and spay or neuter in accordance with the Article is shown to be completed. The owner will be required to pay all fees associated with confinement, vaccination, and any other needed veterinary care during the ten-day confinement period. Any undomesticated cat that has bitten someone will be impounded and confined for rabies observation in the same manner and returned to its colony. Caregivers will not be held responsible for associated fees.

SECTION 3-617: NUISANCE

A non-spayed or non-neutered cat shall constitute a nuisance according to Chapter 3, Article 4 of the David City Municipal Code in compliance with this Article and shall be brought into compliance to remove a nuisance determination.

ARTICLE 7 – CATS

SECTION 3-701: INTENT

The purpose and intent of this article is to decrease the city of David City's undomesticated cat populations by humanely controlling reproduction and without removing cats from city limits in accordance with the Trap, Neuter, and Return ("TNR") population control method for the betterment of the community.

SECTION 3-702: CAT; ANIMAL CONTROL DEFINITION.

Animal Control shall mean the David City Police Department, its agents, assigns, or contracted agents.

SECTION 3-703: FREE ROAMING CAT; DEFINITION.

Free-roaming cat shall mean any cat found roaming freely outside of any home or the control of any person for any length of time.

SECTION 3-704: CAT OWNER; DEFINITION.

Cat owner shall mean any person who confines a cat(s) inside a residence or property structure for any length of time and such cats shall be deemed personal property of

said cat owner.

SECTION 3-705: UNDOMESTICATED CAT; DEFINITION.

Undomesticated cat shall mean any cat that is not confined inside a residence or property structure that does not have a generally known or reasonably discoverable owner.

SECTION 3-706: UNDOMESTICATED CAT CAREGIVER; DEFINITION.

Undomesticated cat caregiver shall mean any person that provides food, water, or shelter to free roaming cats, and does not confine cats inside a residence or property structure for any length of time.

SECTION 3-707: TRAP-NEUTER-RETURN (TNR); DEFINITION.

Trap-Neuter-Return (TNR) shall mean the process of humanely trapping, sterilizing, vaccinating for rabies, ear tipping, and returning undomesticated cats to the location trapped. Animal Control shall obtain consent of the landowner before entering private property for this purpose.

SECTION 3-708: CAT HOARDING; DEFINITION.

Cat hoarding shall mean the accumulation of a number cats such that it overwhelms a person's ability to provide minimum standards of care. Minimum standards of care include nutrition, sanitation, shelter, veterinary care, and socialization causing disease, starvation, or death of cats confined and residing within a property residence or structure.

SECTION 3-709: FREE ROAMING CAT; STERILIZATION-SPAY AND NEUTER.

All free-roaming cats within city limits shall be surgically spayed or neutered by a licensed veterinarian and rabies vaccinated. This shall be done voluntarily by the cat owner or by Animal Control through the TNR process.

SECTION 3-710: OWNED CATS NOT FREE ROAMING; STERILIZATION-SPAY AND NEUTER.

Cat owners shall spay and neuter all cats it owns within four months of age. This provision shall not apply if the procedure would endanger the health of the cat, if the owner is a Nebraska state licensed breeder, if the temporarily resides in a foster home or is used in show and performance competitions, or if a veterinarian does not recommend spay and neuter surgery until later in the cat's life for a medical reason as evidenced by a veterinarian's statement. The cat owner must provide documentation for all other exemptions.

SECTION 3-711: RETURN OF CATS SPAYED AND NEUTERED THROUGH THE TNR PROCESS.

Animal Control shall, after completion of the TNR process, return all cats to the area they were captured, except for cats needing additional medical attention for illness or injury. Cat owners must provide documentation sufficient to evidence ownership as Animal Control determines for the return. If a cat has no identifiable owner it shall be held for a 5-day holding period and if no owner claims the cat, it shall be provided to

the humane society or to some other suitable owner. Undomesticated cat caregivers may request cats for which they provide care to be relocated in this manner for the health and safety of the cats. Cat owners shall pay all applicable boarding, veterinary and licensing fees for this process.

SECTION 3-712: INTERFERENCE WITH THE TNR PROCESS.

Any person found to be removing free-roaming cats from city limits for the sole purpose of dumping said cats in the country, concealing unaltered cats for the purpose of reproduction, releasing cats from traps, tampering with, stealing, damaging, or destroying TNR equipment shall be guilty of a Class V Misdemeanor. Persons found in violation of this provision shall face a \$25 fine, plus equipment replacement cost if applicable, for each offense.

SECTION 3-713: CATS; LICENSING; FEES.

A. *License.* Any person owning a cat over the age of six (6) months within the city shall, within thirty (30) days after acquisition of the said cat, acquire a license for each cat by or before the first (1st) day of May of each year. The cat own shall renew this license annually.

B. *License Application.* The cat owner must provide at the time of license application a certificate indicating the cat has been spayed or neutered and received a rabies vaccination, and, on printed forms of the city, the owner's name and address and the name, breed, color, sex, and sterilization status of each cat for which the license application is for.

C. *Certificate.* Upon payment of the license fee, the City Clerk shall issue to the owner of a cat a license certificate and metallic tag for each cat so licensed. The metallic tags do not need to be attached to the collar and worn by said cat. The City Clerk may issue replacement metallic tags if one is lost or destroyed upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein and that the cat own is not delinquent on the cat's licensing fees. The City Clerk shall design or cause to be designed a new metallic tag each year in order to differentiate between years of issuance.

D. *License Fee.* The cat owner shall pay to the City clerk a license fee of five (\$5.00) dollars for each cat at the time of license application. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed cat. The license fee shall be delinquent from and after May first (1st); provided, the owner of any cat brought into or harbored within the corporate limits after May first (1st) of any year, shall be liable for the payment of the cat tax levied herein and such tax shall be delinquent if not paid within ten (10) days thereafter. All license fees and collections shall be immediately credited to the city's general fund after the City remits the fee Nebraska Revised Statutes section 54-603(3) imposes to the Nebraska Department of Agriculture. (Neb. Rev. Stat. §§ 54-603, 17-526)

E. *Service Animals*. The License Fee provided in this section does not apply to cats that are validly registered as service animals. (Neb. Rev. Stat. § 17-526)

SECTION 3-714: WRONGFUL LICENSING.

It shall be unlawful and a Class V Misdemeanor for any Cat Owner to permit or allow its cat(s) to wear a fake metallic tag, to create or possess a fake cat license, or to otherwise utilize any other evidence of licensure than that issued by the City Clerk for cats.

SECTION 3-715: CATS; KILLING AND POISONING.

It shall be unlawful and a Class IV Misdemeanor to kill, or to administer or cause to be administered, poison of any sort to a cat, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy, or to place any poison, or poisoned food where the same is accessible to a cat.

SECTION 3-716: CATS; BITES.

Any owned cat not vaccinated in accordance with the provisions of this Article that bites any human that causes an abrasion of the skin shall be confined for rabies observation not less than ten (10) days by the owner. If the owner cannot confine the cat for 10 days, the cat will be impounded and held for observation by animal control. If upon examination by a veterinarian, the cat has no clinical signs of rabies at the end of such confinement, it may be released to the owner after rabies vaccination, proper licensing, and spay or neuter in accordance with the Article, is shown to be completed. The owner will be required to pay all fees associated with confinement, vaccination, and any other needed veterinary care during the 10-day confinement period. Undomesticated cats that have bitten will be impounded and confined for rabies observation in the same manner and returned to its colony. Caregivers will not be held responsible for associated fees.

SECTION 3-717: CATS; NUISANCE.

A non-spayed or non-neutered cat shall constitute nuisance according to Chapter 3, Article 4 of the David City Municipal Code in compliance with this Article and shall be brought into compliance to remove a nuisance determination.

SECTION 3-718: HARMONY WITH OTHER ORDINANCES AND LAWS.

To the extent this Article conflicts with other provisions of the David City Municipal Code this Article shall govern.

* * *

Section 2. All ordinances, amendments, and sections in conflict herewith are hereby repealed in full.

Section 3. This Ordinance shall be in full force and take effect from and after its passage, approval, and publication or posting according to law.

Passed and approved this 10th day of April, 2024.

Article 7 – Penal Provisions

SECTION 3-701: VIOLATION; 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 a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Ord. No. 1119, 1/13/10)

SECTION 3-702: ABATEMENT OF NUISANCE

Whenever a nuisance exists as defined in this chapter, the city 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. (Neb. Rev. Stat. §§18-1720, 18-1722)