

CHAPTER 6: POLICE REGULATIONS

Article

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ARTICLE 1: DOGS

§ 6-101 DOGS; LICENSE AND TAG REQUIRED; EXEMPTION; TAGS.

(A) Any owner of a dog over the age of six (6) months within the Municipality shall, within thirty (30) days after acquisition of the dog, acquire a license for the dog annually by or before the May 1 of each year. Licenses shall be issued by the City Clerk upon payment of a license tax in the amount established by the Governing Body, plus the one dollar and twenty-five cent (\$1.25) fee required under section 54-603(3) RS Neb.. It shall be unlawful for the owner of a dog to wrongfully and knowingly license an unspayed female dog as a male or spayed female dog if the Governing Body has established different license taxes for such dogs.

(B) The tax shall be delinquent from and after May 10. The owner of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year shall be liable for payment of the dog tax, and such tax shall be delinquent if not paid within ten (10) days thereafter. The license shall not be transferable, and no refund will be allowed in case of death, sale, or other disposition of the licensed dog.

(C) The owner shall state, at the time the application is made and upon printed forms provided for such purpose, his or her name and address and the name, breed, color, and sex of each dog owned by him or her. A certificate of rabies vaccination, effective for the ensuing year of the license, shall be presented when application for a license is made, and no license or tag shall be issued until the certificate is shown.

(D) Every service animal shall be licensed as required by this section, 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 the required license tax. (*Ref. 54-603 RS Neb.*)

(E) (1) Upon the payment of the license tax, the Clerk shall issue to the owner of the dog a license certificate and a metallic tag, which shall be valid until April 30 following such licensing. The Clerk shall issue tags of a suitable design that are different in appearance each year.

(2) The metallic tag and the rabies tag shall be properly attached to the collar or harness of the dog. It shall be unlawful for the owner of any dog to permit or allow such dog to wear any licensing identification other than the metallic tag issued by the Clerk.

(3) If a license tag is lost, upon satisfactory evidence that the original tag was issued in accordance with the provisions of this section, the Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee established by the Governing Body for each duplicate or new tag so issued.

(F) All license taxes, fees, and other collections shall be credited to the General Fund of the City, except as otherwise provided by section 54-603 RS Neb. (*Amended by. Ord. Nos. 871, 1/13/09; 887, 1/12/10; 6-101, 12/8/15*)

§ 6-102 DOGS; LICENSE TAGS.

Upon the payment of the license fee, the Municipal Clerk or Municipal Pound Authorities shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the thirty-first (31st) day of December following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the Governing Body for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk or Municipal Pound Authorities to issue tags of a suitable design that are different in appearance each year. (*Ref. 17-526, 54-603 RS Neb.*) (*Am. Ord. No. 872, 1/13/09*)

§ 6-103 DOGS; WRONGFUL LICENSING.

(1) It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other Municipal identification than that issued by the Municipal Clerk or Municipal Pound Authorities for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female dog with a license prescribed for a male or spayed female dog. (*Ref. 17-526, 54-603 RS Neb.*)

(2) In the event that a citation is issued under this section, in lieu of filing charges in the County Court, the City Police shall designate on the citation the fine and cutoff date for settlement, and turn the citation over to the office of the City Clerk. If the citation is the individuals only offense under this section in the last six (6) months (counted calendar months back from the date of offense indicated on the citation) and if the fine is paid within five (5) days of the citation date and according to the requirements set out in the citation, no further action shall be taken on that citation. If the fine is not paid within five (5) days, then the citation shall be forwarded to the City Attorney for filing in the Pierce County Court. For purposes of this section, the fine shall be as follows: Twenty dollars (\$20.00) for the offense. (*Ord. No. 756, 6/12/01*)

§ 6-104 DOGS; OWNER DEFINED.

Any person who shall harbor or permit any dog to be for ten (10) days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed.

(Ref. 54-606, 71-4401 RS Neb.)

§ 6-105 DOGS; PROCLAMATION.

It shall be the duty of the Governing Body whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than thirty (30) days or more than ninety (90) days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the said owner may reside. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided. *(Ref. 17-526 RS Neb.)*

§ 6-106 DOGS; CAPTURE IMPOSSIBLE.

The Municipal Police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved. *(Ref. 54-605 RS Neb.)*

§ 6-107 DOGS; VICIOUS.

It shall be unlawful for any person to own, keep, or harbor any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite, without the said dog being securely held by a chain not over six (6) feet long. If any vicious or dangerous dog is otherwise held, confined, or allowed to run at large, the Municipal Police shall have the authority to put the dog to death. (*Ref. 17-526 RS Neb.*)

§ 6-108 DOGS; INTERFERENCE WITH POLICE.

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

§ 6-109 DOGS; KILLING AND POISONING.

It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog; provided, that this section shall not apply to Municipal Policemen acting within their power and duty. (*Ref. 28-1002 RS Neb.*)

§ 6-110 DOGS; BARKING AND OFFENSIVE.

(1) It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, or person, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the Municipality. (*Ref. 17-526 RS Neb.*)

(2) In the event that a citation is issued under this section, in lieu of filing charges in the County Court, the City Police shall designate on the citation the fine and cutoff date for settlement, and turn the citation over to the office of the City Clerk. If the citation is the individuals only offense under this section in the last six (6) months (counted calendar months back from the date of offense indicated on the citation) and if the fine is paid within five (5) days of the citation date and according to the requirements set out in the citation, no further action shall be taken on that citation. If the fine is not paid within five (5) days, then the citation shall be forwarded to the City Attorney for filing in the Pierce County Court. For purposes of this section, the fine shall be as follows: Twenty dollars (\$20.00) for the offense. (*Ord. No. 756, 6/12/01*)

§ 6-111 DOGS; 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. (*Ref. 17-526 RS Neb.*)

§ 6-112 DOGS; LIABILITY OF OWNER.

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, or under his 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. (*Ref. 54-601, 54-602 RS Neb.*)

§ 6-113 DOGS; REMOVAL OF TAGS.

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

§ 6-114 DOGS; IMPOUNDING.

It shall be the duty of the Municipal Police to capture, secure, and remove in a humane manner to the Municipal Animal Shelter any dog violating any of the provisions of this Article. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than five (5) days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk within twenty-four (24) hours after impoundment as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the Governing Body and on file in the office of the Municipal Clerk. The owner shall then be required to comply with the licensing and rabies vaccination requirements within seventy-two (72) hours after release. If the dog is not claimed at the end of required waiting period after public notice has been given the Municipal Police may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, that if, in the judgment of the Municipal Police, a suitable home can be found for any such dog within the Municipality, the said dog shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this Article. The Municipality shall acquire legal title to any unlicensed dog impounded in the Animal 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 Board of Health unless a suitable home can be found for such dog. (*Ref. 17-548, 71-4408 RS Neb.*)(*Amended by Ord. Nos. 298, 10/10/77; 364, 2/9/81; 387, 12/8/81*)

§ 6-115 DOGS; RABIES SUSPECTED.

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 not less than ten (10) 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 (10) 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.

§ 6-116 DOGS; RUNNING AT LARGE; DEFINITIONS; PENALTIES.

(1) No dog shall be permitted to run at large in the City. For purposes of this section, a dog shall be deemed to be running at large unless:

- (a) It is confined within a residence, a building, fenced area or kennel; or
- (b) It is tied in a fixed location from which it cannot reach a public sidewalk or street; or
- (c) It is on a leash under the control of its owner or handler; or

(d) It is on property owned or leased by its owner and under the constant supervision and control of the owner.

(2) Any dog found to be running at large may be impounded as otherwise provided in this Article, or in the alternative, a citation may be issued to the owner of the dog by the Municipal Police.

(3) In the event that a citation is issued under this section, in lieu of filing charges in the County Court, the City Police shall designate on the citation the fine and cutoff date for settlement, and turn the citation over to the office of the City Clerk. If the citation is the individual's only offense under this section in the last six (6) months (counted calendar months back from the date of offense indicated on the citation) and if the fine is paid within five (5) days of the citation date and according to the requirements set out in the citation, no further action shall be taken on that citation. If the fine is not

paid within five (5) days, then the citation shall be forwarded to the City Attorney for filing in the Pierce County Court. For purposes of this section, the fine shall be as follows: Fifty dollars (\$50.00) for the offense. (*Ord. No. 367, 3/12/81*) (*Amended by Ord. Nos. 500, 2/14/89; 756, 6/12/01; 882, 1/12/10*)

Cross Reference:

Rules of confinement, see § 6-117(H)

§ 6-117 DOGS; DANGEROUS DOGS.

From and after the effective date of this section, the following dangerous dog regulations hereby are adopted, in addition and in supplementation to other ordinances in effect on this date. Owners of dogs shall comply with all ordinances, with City having authority to prosecute under any and all ordinances.

(A) *Prohibited.* It is hereby determined unlawful for any person, firm or other legal entity to own, harbor, or maintain a dangerous dog, contrary to the terms of this section, within the corporate limits of the City or its zoning jurisdiction.

(B) *Definitions.* The following breeds of dogs, to-wit: Pit Bull or Pit Bull mix; Rottweiler; Boxer; Husky, German Shepherd, Alaskan Malamutes, Akitas, Wolf, Wolf Cross, or Wolf Hybrid; or any dogs displaying the primary characteristics of the above-named breeds, are hereby determined to be DANGEROUS DOGS.

(C) *Veterinarian's decision final.* If a dispute exists as to whether a dog within the City or its zoning jurisdiction is of the breeds or has the primary characteristics of one of the breeds of dogs determined to be a dangerous dog and a nuisance as set forth above, the City shall employ a Nebraska licensed veterinarian to examine the animal or pictures of the animal to determine whether such animal is one of the breeds or has the primary characteristics of the breeds determined to be dangerous. Such determination shall be final on both the City and the person owning or harboring the dog.

(D) *Exceptions.* Dangerous dogs, as defined in division (B) above, shall be permitted within the City, but only under the following terms and conditions:

(1) Within sixty (60) days of final passage of this section, an application for a permit to harbor such animals within the City shall be made to the City Clerk. Such application shall be accompanied by the following:

- (a) Evidence of current licensing of such animal by the City of Plainview;
- (b) Evidence that such animal has been spayed or neutered;

(c) An application fee of one hundred dollars (\$100.00) shall be paid at the time of application. In addition to the application fee; owner will pay a one-time registration license fee of twenty-five dollars (\$25.00) per animal. The license will renew annually at no fee to owner with proof of vaccines;

(d) Four (4) color photographs of such animal, displaying the front view, rear view, and both sides of the animal. Or the owner may take the animal to the vet, at their expense, to have animal identification completed;

(e) Photographs and diagram with measurements of the pen in which the animal will be contained;

(f) Evidence that the owner has obtained liability insurance in an amount of at least twenty-five thousand dollars (\$250,000.00) to insure against death, injury or damage occasioned by such animal. Current proof of insurance shall be provided to the City by letter from insurance company, agreeing to notify City if insurance is dropped or cancelled.

(2) Upon receipt of such application, fee and information, the City Clerk shall issue a dangerous dog permit if the same complies with this and other ordinances of the City. The permit shall be for one (1) year only and the owner of such dangerous dog shall be required to make new application annually. (If pictures remain reasonably current, new pictures shall be required only every third year.) There will be no charge for annual renewal of the permit.

(E) *Additional requirements.*

(1) All dangerous dogs, when out of doors and not on a leash, (as set out below) shall be contained within a fully enclosed pen or chain link fence of at least six (6) feet in height, and a minimum of sixty (60) square feet in area. Such pen or chain link fence shall have a concrete floor or buried footings to prevent the animal from digging under the fence, and also a roof or wire top, with a locked gate.

(2) Any dangerous dog, when out of its pen and out of doors, shall be restrained by a metal leash of sufficient strength to restrain such animal, and shall be under the immediate control of a person sixteen (16) years old or older.

(3) No dangerous dog shall be kept out of doors, for any period of time if unsupervised, on a chain, device, leash, or other tethering.

(F) *Unprovoked attack.* Any dangerous dog engaging in an unprovoked attack upon any human being or other domestic animal resulting in injury to a human being that requires medical attention or serious injury to another domestic animal, requiring veterinary attention, will be apprehended by the Plainview Police and destroyed.

(G) *Any dog; attack or threatening.* Any dog that chases or approaches a person upon streets, sidewalks, private property not owned by the dog's owner, or any public grounds, in a menacing fashion or apparent attitude of attack, shall be classified as a dangerous dog and confined and managed as a dangerous dog. Upon receipt of notice of such classification, the owner thereof shall have thirty (30) days to comply with dangerous dog requirements.

(H) *All dogs; rules on confinement.* Any dog (unless subject to stricter requirements as dangerous dog as stated above):

(1) Shall not be allowed to run loose within the City limits, unless said dog is on property owned by the owner of the dog, and under the immediate and constant supervision of the dog owner or another adult member of the dog owner's family. If off the owner's property, such dog shall be constantly on a leash adequate to secure the dog in question, and under the owner's constant control.

(2) Shall not be left out of doors and unsupervised unless in a kennel, or on the owner's property and in a fenced area with solid or wire fence at least four (4) feet high. Upon any one incident of the dog escaping the fenced area and running at large owner may be cited for "dog at large", only a kennel will be allowed (fenced area shall not longer be deemed adequate) and kennel shall meet the requirements of those required of dogs defined as dangerous dogs. (Temporary dog escape of less than five (5) minutes, with owner immediately retrieving the dog, will not trigger this kennel requirement).

(3) Shall not be confined outside on a leash or chain and unsupervised, but shall only be in a fenced area or kennel when unsupervised. No fenced area or kennel shall have a side or boundary any closer than six (6) feet to a public sidewalk or other public area.

(I) *Penalty.* Any person, firm or other legal entity violating the terms of this section shall be fined in a sum not to exceed five hundred dollars (\$500.00) and each day's violation shall be a separate offense.

(Ref. 54-617 RS Neb.) (Ord. No. 510, 11/14/89) (Amended by Ord. No. 510, 8/8/17)

§ 6-118 DANGEROUS DOGS; RESTRAINED.

See § 6-117 for provisions on dangerous dogs.

§ 6-119 DANGEROUS DOGS; CONFINED.

See § 6-117 for provisions on dangerous dogs.

§ 6-120 DANGEROUS DOGS; FAILURE TO COMPLY.

See § 6-117 for provisions on dangerous dogs.

§ 6-121 DANGEROUS DOGS; ADDITIONAL REGULATIONS.

See § 6-117 for provisions on dangerous dogs.

ARTICLE 2: ANIMALS GENERALLY

§ 6-201 ANIMALS; CONTROLLED WITHIN MUNICIPALITY.

It shall be unlawful for any person to keep and maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock, and it shall also be unlawful to keep and maintain within the corporate limits any chickens, geese, turkeys, or other fowl. *(Amended by Ord. No. 884, 9/14/10)*

§ 6-202 ANIMALS; CRUELTY.

No person shall cruelly or unnecessarily beat, overwork, or insufficiently shelter or feed any animal within the Municipality. *(Ref. 28-1001, 28-1002 RS Neb.)*

§ 6-203 ANIMALS; KILLING AND INJURING.

No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal. *(Ref. 28-1001, 28-1002 RS Neb.)*

§ 6-204 ANIMALS; ENCLOSURES.

All pens, cages, sheds, yards, or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

§ 6-205 CATS; REGISTRATION REQUIRED.

It shall be unlawful for any person in the Municipality to own, keep, or harbor a cat over the age of three (3) months without having licensed said cat. Application for the said license shall be made to the Municipal Clerk and shall include the name and address of the owner of the cat; such description as may be required for the purpose of identification; and the number of the registration issued. Upon the payment of a fee set by resolution of the Governing Body AND collection of the one dollar (\$1.00) per license fee required by the State of Nebraska to be remitted to the Commercial Dog and Cat Operator Inspection Fund, the Municipal Clerk shall furnish to the registrant a receipt showing proof of such payment and a metallic tag bearing the registration number and the registration year. The license renewal shall be due on the first (1st) day of May of any year, and the renewal fee shall be delinquent on the tenth

(10th) day of May. Said license shall not be transferable and no refund will be allowed in the case of the death, sale, or other disposition of the licensed cat. No license shall be issued without presentation of a certificate for a rabies shot effective for the ensuing year. In the event that the license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year for which the tax has been paid and may charge and collect a fee set by resolution of the Governing Body for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year. (Ref. 17-547 RS Neb.) (Ord. No. 380, 12/8/81) (Amended by Ord. No. 886, 10/12/10)

§ 6-206 ANY ANIMAL; OWNER DEFINED FOR PURPOSES OF CHAPTER 2.

OWNER. Any person possessing, keeping, harboring, or having charge or control of any domestic or hybrid animal or permitting any domestic animal to habitually be or remain on or be lodged or fed within the person's house, yard, or premises. This term does not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic or hybrid animals owned by other persons for a period of not more than thirty (30) days.
(Ref. 71-4401 RS Neb.)

§ 6-207 ABANDONMENT, NEGLECT, AND MISTREATMENT.

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

ABANDON. To leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

ANIMAL. Any vertebrate member of the animal kingdom. **ANIMAL** does not include an uncaptured wild creature or a livestock animal as defined in this section.

BOVINE. A cow, an ox, or a bison.

CRUELLY MISTREAT. To knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal.

CRUELLY NEGLECT. To fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health.

HUMANE KILLING. The destruction of an animal by a method which causes the animal a minimum of pain and suffering.

LAW ENFORCEMENT OFFICER. Any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the Municipality or any other city or village, or any other public official authorized by the Municipality or any other city or village to enforce state or local animal control laws, rules, regulations, or ordinances.

LIVESTOCK ANIMAL. Any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, or poultry.

OWNER or CUSTODIAN. Any person owning, keeping, possessing, harboring, or knowingly permitting an animal to remain on or about any premises owned or occupied by such person.

POLICE ANIMAL. A horse or dog owned or controlled by the state or any county, city, or village for the purpose of assisting a law enforcement officer in the performance of his or her official enforcement duties. (*Ref. 28-1008 RS Neb.*)

(B) *Enforcement powers; immunity.*

(1) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner or custodian as prescribed in sections 29-422 to 29-429 RS Neb.

(3) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (*Ref. 28-1012 RS Neb.*)

(C) *Violation.*

(1) A person who intentionally, knowingly, or recklessly abandons, cruelly neglects, or cruelly mistreats an animal is guilty of an offense.

(2) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. (*Ref. 28-1009 RS Neb.*) (*Ord. No. 6-207, 2/12/13*) (*Amended by Ord. No. 6-206, 12/8/15*)

ARTICLE 3: MISCELLANEOUS MISDEMEANORS

§ 6-301 MISDEMEANORS; IMPERSONATING AN OFFICER.

It shall be unlawful for any person other than a Municipal or State Police Officer to wear an official badge or uniform, or to falsely and willfully impersonate the said officials.

§ 6-302 MISDEMEANORS; REFUSING TO ASSIST OFFICER.

It shall be unlawful for any person to refuse to assist a Municipal Police Officer when lawfully requested to do so by him.

§ 6-303 MISDEMEANORS; RESISTING OFFICER.

It shall be unlawful for any person to resist any Municipal Policeman when such officer is in the lawful performance of his duties.

§ 6-304 MISDEMEANORS; ABUSING OFFICER.

It shall be unlawful for any person to abuse a police officer or Municipal official in the execution of his office.

§ 6-304.5 MISDEMEANORS; OBSTRUCTING A PEACE OFFICER.

(A) A person commits the offense of obstructing a peace officer when, by using or threatening to use violence, force, physical interference, or obstacle, he or she intentionally obstructs, impairs, or hinders:

(1) The enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of his or her official authority; or

(2) A police animal assisting a peace officer acting pursuant to the peace officer's official authority.

(B) For purposes of this section, **POLICE ANIMAL** means a horse or dog owned or controlled by the state or any county, city, or village for the purpose of assisting a peace officer acting pursuant to his or her official authority. (*Ref. 28-906 RS Neb.*) (*Ord. No. 6-304.5, 2/12/13*)

§ 6-305 MISDEMEANORS; TRESPASSING.

It shall be unlawful for any person to trespass upon any private grounds within the Municipality, or to break, cut, or injure any tree, shrub, plant, flower, or grass growing thereon, or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same.

§ 6-306 MISDEMEANORS; MALICIOUS DESTRUCTION OF PROPERTY.

It shall be unlawful for any person within the corporate limits to purposely, willfully, or maliciously injure in any manner, or destroy any real or personal property of any description belonging to another.

§ 6-307 MISDEMEANORS; LARCENY.

It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same be entirely in money or entirely property of the value of less than three hundred (\$300.00) dollars shall be deemed to be guilty of a misdemeanor. (*Ref. 28-512, 28-514 RS Neb.*)

§ 6-308 MISDEMEANORS; CONCEALING STOLEN PROPERTY.

Any person who receives or conceals stolen property, goods, or chattels of any kind with the intent to defraud the owner, or whoever receives or conceals any money or other accountable receipts and evidences of ownership shall be deemed to be guilty of a misdemeanor.

§ 6-309 MISDEMEANORS; ARSON.

Any person who willfully or maliciously sets on fire any property when the injury or damage therefrom shall be of a less value than thirty-five (\$35.00) dollars, shall be deemed to be guilty of a misdemeanor. (*Ref. 28-503 RS Neb.*)

§ 6-310 MISDEMEANORS; INJURY TO TREES.

It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the Governing Body to do so, and the written permit of the Governing Body in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. (*Amended by Ord. No. 299, 10/10/77*)

§ 6-311 MISDEMEANORS; FIRE EQUIPMENT.

It shall be unlawful for any person who is not an active member of the Municipal Fire Department to deface, destroy, handle, or loiter about the equipment and property of the Fire Department.

§ 6-312 MISDEMEANORS; FIRE HOSE.

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

§ 6-313 MISDEMEANORS; TRASH.

It shall be unlawful for any person to willfully, maliciously, or negligently place or throw upon the premise of another any filth, garbage, leaves, papers, or other matter to the annoyance of the owner or occupant thereon. (*Ref. 28-591 RS Neb.*)

§ 6-314 MISDEMEANORS; DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.

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

ALCOHOLIC BEVERAGE.

(a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than 0.5% alcohol by volume; or

(c) Distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(d) **ALCOHOLIC BEVERAGE** does not include trace amounts not readily consumable as a beverage.

HIGHWAY. A road or street including the entire area within the right-of-way.

LIMOUSINE. A luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five (5) and no more than fourteen (14) persons behind the driver with a physical partition separating the driver seat from the passenger compartment. **LIMOUSINE** does not include taxicabs, hotel or airport buses or shuttles, or buses.

OPEN ALCOHOLIC BEVERAGE CONTAINER. Except as provided in sections 53-123.04(3) and 53-123.11(1)(c) RS Neb., any bottle, can, or other receptacle:

(a) That contains any amount of alcoholic beverage; and

(b) (i) That is open or has a broken seal; or

(ii) The contents of which are partially removed.

PASSENGER AREA. The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in the area. **PASSENGER AREA** does not include the area behind the last upright seat of the motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(B) Except as otherwise provided in this section, it is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this Municipality.

(C) Except as provided in section 10-120 of this Code or division (D) of this section, it is unlawful for any person to consume an alcoholic beverage:

(1) In a public parking area or on any highway in this Municipality; or

(2) Inside a motor vehicle while in a public parking area or on any highway in this Municipality.

(D) This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the state Public Service Commission and subject to Neb. Admin. Code, Chapter 75, Article 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this Municipality if:

(1) The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and

(2) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area. (*Ref. 60-6,211.08 RS Neb.*) (*Amended by Ord. Nos. 742, 7/11/00; 10-122, 5/8/12*)

§ 6-315 MISDEMEANORS; MISREPRESENTATION BY MINOR.

It shall be unlawful for any minor to represent that he is of the age of nineteen (19) years for the purpose of asking for, purchasing, or receiving any alcoholic beverages. (*Ref. 53-103 RS Neb.*)

§ 6-316 MISDEMEANORS; MINOR IN POSSESSION.

It shall be unlawful for any person, defined by Chapter 53 of the Revised Statutes of the State of Nebraska to be a minor for the purpose of that Chapter, to transport, knowingly possess, or have under his control in any motor vehicle, beer or other alcoholic liquor on any public street, alley, roadway, or property owned by the State of Nebraska or any subdivision thereof, or any other place within the Municipal limits. (*Amended by Ord. No. 404, 3/8/83*)

§ 6-317 MISDEMEANORS; 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.

§ 6-318 MISDEMEANORS; POSTING.

It shall be unlawful for any person to post, paste, or paint any sign, advertisement, or other writing of any nature upon a fence, pole, building, or other property without the written permission of the owner of the said property.

§ 6-319 MISDEMEANORS; DISCHARGE OF FIREARMS.

It shall be unlawful for any person, except an officer of the law in the discharge of his official duty, to fire or discharge any gun, pistol, or other fowling piece within the Municipality; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Governing Body. (*Ref. 17-556 RS Neb.*)

§ 6-320 MISDEMEANORS; CONCEALED WEAPONS.

(A) (1) Except as otherwise provided in this section, any person 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.

(2) It is an affirmative defense that the defendant was engaged in any lawful business, calling, or employment at the time he or she was carrying any weapon or weapons and the circumstances in which such person was placed at the time were such as to justify a prudent person in carrying the weapon or weapons for the defense of his or her person, property, or family.

(B) This section does not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon the defendant is carrying is a handgun defined in section 69-2429 RS Neb. (*Ref. 28-1202 RS Neb.*)

§ 6-321 MISDEMEANORS; SLINGSHOTS, AIR GUNS, BB GUNS.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the Municipality. (*Ref. 17-207 RS Neb.*)

§ 6-322 MISDEMEANORS; FIREWORKS DEFINED.

DISTRIBUTOR. Any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or as a retailer or both.

FIREWORKS. Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations.

(1) **COMMON FIREWORKS.** Any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition and labeling regulations of the United States Consumer Product Safety Commission set forth in 16 C.F.R., small devices designed to produce audible effects such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition and aerial devices and firecrackers containing one hundred thirty (130) milligrams or less of explosive composition. Class C explosives as classified by the United States Department of Transportation shall be considered common fireworks.

(2) **DISPLAY FIREWORKS.** Those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration or detonation. Includes but is not limited to firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of explosive composition and other display pieces which exceed the limits for classification as common fireworks. Class B explosives as classified by the United States Department of Transportation shall be considered display fireworks. Display fireworks shall be considered an explosive as defined in section 28-1213 RS Neb. and shall be subject to sections 28-1213 to 28-1239 RS Neb., except that display fireworks may be purchased, received and discharged by the holder of an approved display permit issued pursuant to section 28-1239.01 RS Neb.

(3) **PERMITTED FIREWORKS.** Only sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed seven-eighths (7/8) of an inch in length or one-eighth (1/8) inch in diameter, total explosive composition not to exceed fifty (50) milligrams in weight, color wheels and any other fireworks approved under section 28-1247 RS Neb.

JOBBER. Any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail.

RETAILER. Any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers.

SALE. Includes barter, exchange or gift or offer therefor and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee. (Ref. 28-1241 RS Neb.) (Amended by Ord. No. 493, 11/8/88)

§ 6-322.01 MISDEMEANORS; FIREWORKS; PERMITTED FIREWORKS.

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

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purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths (7/8") inch in length or one-eighth (1/8") inch in diameter, and which do not contain more than fifty (50) milligrams each in weight of explosive material, and then only between June 24 and July 5 of each year.

(b) On the 4th of July fireworks may be discharged between the hours of 8:00 A.M. and 12:00 midnight; on all other days discharge of fireworks shall be limited to 12:00 noon to 10:00 P.M.

(2) The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the City Council or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal. (*Ref. 17-556, 28-1241, 28-1244, 28-1245 RS Neb.*) (*Ord. No. 494, 11/8/88*) (*Amended by Ord. Nos. 915, 12/10/13; 944, 8/14/18*)

§ 6-323 MISDEMEANORS; ASSAULTS.

It shall be unlawful for any person to assault or threaten any other person or persons. Any person who assaults another person or persons shall be deemed to be guilty of a misdemeanor. (*Ref. 28-411 RS Neb.*)

§ 6-324 MISDEMEANORS; PROVOKING ASSAULT.

It shall be unlawful for any person or persons within the Municipality to intentionally provoke or attempt to provoke an assault upon himself or another by the uttering of insulting words, cursing and swearing, or to use slander against any other person. Upon conviction a fine not to exceed ten (\$10.00) dollars shall be assessed. (*Ref. 28-412 RS Neb.*)

§ 6-325 MISDEMEANORS; ASSAULT AND BATTERY.

It shall be unlawful for any person to assault, threaten, strike, or injure any other person or persons. Any person who assaults or batters another person or persons shall be deemed to be guilty of a misdemeanor. (*Ref. 28-411 RS Neb.*)

§ 6-326 MISDEMEANORS; DISTURBING THE PEACE.

It shall be unlawful for any person or persons to assemble or gather within the Municipality with the intent to do an unlawful or disorderly act or acts, by force or violence against the Municipality, or residents therein, or who shall disturb the public peace, quiet, security, repose, or sense of morality. Any person or persons so assembled or gathered shall be deemed to be guilty of a misdemeanor. (*Ref. 28-818 RS Neb.*)

§ 6-327 MISDEMEANORS; DISORDERLY CONDUCT.

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct themselves in such a way as to breach the peace shall be deemed to be guilty of a misdemeanor. (*Ref. 17-129, 17-556 RS Neb.*)

§ 6-328 MISDEMEANORS; MALICIOUS MISCHIEF.

It shall be deemed a misdemeanor for any person to willfully destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, structure, or thing of value which is located upon any government property, cemetery, or property of historic value. Conviction of such misdemeanor shall be punishable by a fine not less than five (\$5.00) dollars, nor more than one hundred (\$100.00) dollars.

Any such offender shall also be liable, in an action for trespass in the name of the beneficial holder of said property, for all damages which arise from the commission of such unlawful act. (*Ref. 12-519 RS Neb.*)

§ 6-329 MISDEMEANORS; 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. Any person or persons so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with State statute. (*Ref. 28-801 through 28-803 RS Neb.*)

§ 6-330 MISDEMEANORS; UNLAWFUL ASSEMBLY.

It shall be unlawful for three (3) or more persons to assemble together upon any sidewalk or street thereof, in front of or adjacent to any store, shop, or other place of business, so as to obstruct the public right-of-way along said street or sidewalk, or entrance to said place of business, or so as to obstruct or injure the carrying on or any lawful business in any of the places aforesaid within the limits of the Municipality. (*Ref. 28-804 RS Neb.*)

§ 6-331 MISDEMEANORS; LITTERING.

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

(a) Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or

(b) The litter is placed in a receptacle or container installed on such property for such purpose.

(2) The word litter as used in this section shall mean all waste material susceptible of being dropped, deposited, discarded or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing. Waste material as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(3) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering. (*Ref. 28-523 RS Neb.*) (*Amended by Ord. No. 611, 2/14/95*)

§ 6-332 MISDEMEANORS; PROHIBITED FENCES.

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

§ 6-333 MISDEMEANORS; APPLIANCES IN YARD.

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 he shall first remove all doors and make the same reasonably safe. (*Ref. 18-1720 RS Neb.*)

§ 6-334 MISDEMEANORS; OBSTRUCTION OF PUBLIC WAYS.

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

§ 6-335 MISDEMEANORS; 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.

§ 6-336 MISDEMEANORS; REMOVING DIRT.

It is hereby declared unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of such street, alley, or public grounds without first having obtained written permission to do so from the Governing Body.

§ 6-337 WEEDS, LITTER, STAGNANT WATER.

(A) Lots or pieces of ground within the Municipality or within its extraterritorial zoning jurisdiction shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the Municipality or within its extraterritorial zoning jurisdiction shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of twelve (12) inches or more in height of weeds, grasses, or worthless vegetation.

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(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the Municipality or within its extraterritorial zoning jurisdiction is prohibited.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of twelve (12) inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground within the Municipality or within its extraterritorial zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

(F) (1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any. The Municipality shall establish the method of notice by ordinance. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five (5) days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the Municipality to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the Clerk. A hearing on the appeal shall be held within fourteen (14) days after the filing of the appeal and shall be conducted by an elected or appointed officer as designated in the ordinance. The hearing officer shall render a decision on the appeal within five (5) business days after the conclusion of the hearing. If the appeal fails, the Municipality may have such work done. Within five (5) days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the Municipality or fails to comply with the order to abate and remove the nuisance, the Municipality may have such work done.

(2) The costs and expenses of any such work shall be paid by the owner. If unpaid for two (2) months after such work is done, the Municipality may either:

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

(b) 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.

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

LITTER. Includes but is not limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

- (b) Wood, plaster, cement, brick, or stone building rubble;
- (c) Grass, leaves, and worthless vegetation except when used as ground mulch or in a compost pile;
- (d) Offal and dead animals; and
- (e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

WEEDS. Include, but are not limited to: bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*). (*Ref. 17-563 RS Neb.*) (*Amended by Ord. Nos. 665, 7/8/97; 837, 2/8/05; 920, 2/26/14; 6-337, 12/8/15; 942, 2/13/18*)

§ 6-338 MISDEMEANORS; DISEASED OR DYING TREES. (*Repealed by Ord. No. 610, 2/14/95*)

§ 6-339 MISDEMEANORS; RADIO INTERFERENCE.

Any person operating, or causing to be operated, any motor, sign, or other electrical apparatus that is connected with the light and power system shall equip the apparatus with proper filtering attachments to eliminate interference; provided, that the provisions herein shall not apply to the use of necessary medical equipment or apparatus where electrical interference cannot be reasonably and safely eliminated. Any person who so operates, or causes to be operated, any such electrical apparatus that interferes habitually with radio and television reception shall be deemed to be guilty of a misdemeanor. (*Ref. 18-1720 RS Neb.*)

§ 6-340 MISDEMEANORS; ABANDONED AUTOMOBILES.

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

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

1. If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six (6) hours on any public property;

2. If left unattended for more than twenty-four (24) hours on any public property, except a portion thereof on which parking is legally permitted;

3. If left unattended for more than forty-eight (48) hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

4. If left unattended for more than seven (7) days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

5. If left for more than thirty (30) days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section;
or

6. If removed from private property by the city pursuant to a city ordinance or this code.

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

1. If left unattended for more than twenty-four (24) hours on any public property, except a portion thereof on which parking is legally permitted;

2. If left unattended for more than forty-eight (48) hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

3. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

4. If left for more than thirty (30) days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section;
or

5. If removed from private property by the city pursuant to a city ordinance or this code.

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

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

MOBILE HOME. A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or of two (2) or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in section 71-4603 RS Neb. **MOBILE HOME** does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to section 60-169 RS Neb.

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

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

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

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

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

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

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

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(a) It will be sold or will be offered at public auction after five (5) days from the date such notice was mailed; or

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

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

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

(a) Five (5) days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (C)(2)(a) of this section;

(b) Thirty (30) days after the date the notice is mailed if the City will retain the vehicle;
or

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

(5) After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the City may retain for use, sell, or auction the abandoned vehicle. If the city has determined that the vehicle should be retained for use, the City shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the City intends to retain the abandoned vehicle for its use and that title will vest in the City thirty (30) days after the publication. *(Ref. 60-1903 RS Neb.)*

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

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

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. *(Ref. 60-4903.01 RS Neb.)*

(E) (1) A law enforcement agency is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the procedures in sections 60-1902 and 60-1903 RS Neb.

(2) A law enforcement agency is authorized to contact a private towing service in order to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. A vehicle towed away under this subsection is subject to sections 52-601.01 to 52-605 and 60-2410 RS Neb. by the private towing service which towed the vehicle.

(3) A private property owner is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within twenty-four (24) hours, the designated law enforcement agency in the jurisdiction from which the vehicle is removed and provide the registration plate number, the vehicle identification number, if available, the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle towed away under this subsection is subject to sections 52-601.01 to 52-605 and 60-2410 RS Neb. by the private towing service that towed the vehicle.

(4) For purposes of this section, a trespassing vehicle is a vehicle that is parked without permission on private property that is not typically made available for public parking. (*Ref. 60-1903.02 RS Neb.*)

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

(G) Any proceeds from the sale of an abandoned vehicle in the City's custody less any expenses incurred by the city shall be held by the City without interest, for the benefit of the owner or lienholders of such vehicle for a period of two (2) years. If not claimed within such two (2)-year period, the proceeds shall be paid into the general fund of the City. (*Ref. 60-1905 RS Neb.*)

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

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

(J) No person other than one authorized by the City or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without licenses plates affixed or which is abandoned. Anyone violating this division shall be guilty of an offense. (*Ref. 60-1908 RS Neb.*)

(K) The last-registered owner of an abandoned vehicle shall be liable to the City for the costs of removal and storage of such vehicle. (*Ref. 60-1909 RS Neb.*)

(L) Any person violating the provisions of this section shall be guilty of an offense. (*Amended by Ord. Nos. 301, 10/10/77; 741, 7/11/00; 922, 2/10/15; 948, 3/12/19*)

§ 6-340.1 MISDEMEANORS; UNATTENDED MOTOR VEHICLE.

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended on a highway without first doing the following:

(A) Stopping the motor of such vehicle;

(B) Except for vehicles equipped with motor starters that may be actuated without a key, locking the ignition, removing the key from the ignition;

(C) Effectively setting the brakes thereon; and

(D) When standing upon any roadway, turning the front wheels of such vehicle to the curb or side of such roadway. (*Ref. 60-6,168 RS Neb.*) (*Ord. No. 942, 2/13/18*)

§ 6-341 MISDEMEANORS; UNLICENSED OR INOPERABLE VEHICLES.

No person in charge or control of any property within the Municipality, other than Municipal property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on such property longer than thirty (30) days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time; provided, this section shall not apply to a vehicle bearing a valid "In Transit" sticker; a vehicle in an enclosed building; to a vehicle on the premises of a business enterprise, operated in a lawful place and manner, when such vehicle is necessary to the lawful operation of the business; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the

Municipality. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a misdemeanor. *(Amended by Ord. No. 300, 10/10/77)*

§ 6-342 MISDEMEANORS; CURFEW.

It shall be unlawful for any minor under the age of eighteen (18) years to ride in or operate any vehicle in or upon any street, alley, or other public place, or to loiter, wander, stroll, loaf, or play in or upon any of the streets, alleys, or other public places between the hours of 11:00 p.m. of any day and 6:00 a.m. of the following day except Friday and Saturday when said hours shall be between 12:00 midnight and 6:00 a.m. unless accompanied by a parent, guardian or other adult person having the care, custody or control of said minor, or the minor is engaged in lawful employment or is on an emergency errand; provided, when an activity of the kind normally attended by minor under eighteen (18) years terminates after or less than one (1) hour after the termination of such activity. *(Amended by Ord. Nos. 345, 6/9/80; 442, 12/11/84; 941, 12/12/17)*

§ 6-343 MISDEMEANORS; DRIVING UNDER THE INFLUENCE.

(1) It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

(a) While under the influence of alcoholic liquor or of any drug;

(b) When such person has a concentration of ten-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood; or

(c) When such person has a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(2) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(3) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of the Municipality may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or

tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in the Municipality while under the influence of alcoholic liquor or drugs in violation of this section.

(4) Any peace officer who has been duly authorized to make arrests for violation of traffic laws of the state or of ordinances of the Municipality may require any person who operates or has in his or her actual physical control a motor vehicle in the Municipality to submit to a preliminary test of his or her breath for alcohol concentration if the officer has reasonable grounds to believe that such person has alcohol in his or her body, has committed a moving traffic violation, or has been involved in a traffic accident. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicated an alcohol concentration in violation of subsection (1) of this section shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of an offense.

(5) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of subsection (1) of this section, or if any person refuses to submit to such test or tests required pursuant to this section, such person shall be subject to the administrative revocation procedures provided in section 60-6,205 to 60-6,208 RS Neb., and shall be guilty of an offense.

(6) Upon the conviction of any person for the violation of this section, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests pursuant to a permit issued in accordance with section 60-6,201 RS Neb., for the test administered and the analysis thereof if such test was actually made. (*Ref. 60-6,196, 60-6,197, 60-6,203 RS Neb.*) (*Ord. No. 591, 7/12/94*)

§ 6-344 MISDEMEANORS; FALSE REPORTING.

It shall be unlawful for any person to:

(1) Furnish material information he or she knows to be false to any peace 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;

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

(3) 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;

(4) 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;

(5) 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 ongoing investigation and which actually results in causing or impeding such investigation.

A person who violates this section commits the offense of false reporting. (*Ref. 28-907 RS Neb.*) (*Ord. 709, 8/11/98*)

§ 6-345 MISDEMEANORS; CRIMINAL MISCHIEF.

(A) A person commits criminal mischief if he or she:

- (1) Damages property of another intentionally or recklessly; or
- (2) Intentionally tampers with property of another so as to endanger person or property; or
- (3) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

(B) Criminal mischief is an offense:

- (1) If the actor intentionally or maliciously causes pecuniary loss of five hundred dollars (\$500.00) or more but less than fifteen hundred dollars (\$1,500.00); or
- (2) If the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than five hundred dollars (\$500.00) or if his or her action results in no pecuniary loss. (*Ref. 28-519 RS Neb.*) (*Ord. No. 794, 4/8/03*) (*Amended by Ord. No. 6-345, 12/8/15*)

§ 6-346 MISDEMEANORS; SEX OFFENDER REGISTRATION.

(A) *Findings and intent.*

(1) The Nebraska Legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled municipalities to restrict such persons' place of residence as provided in the Sexual Predator Residency Restriction Act.

(2) Sexual offenders who prey on children and who are high risks to repeat such acts present an extreme threat to public safety. The cost of sex offender victimization to these children and to society at large, while incalculable, is exorbitant.

(3) It is the intent of this section to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sex predators cannot reside.

(B) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) **CHILD CARE FACILITY.** A facility licensed pursuant to the Child Care Licensing Act.

(2) **SCHOOL.** A public, private, denominational, or parochial school which meets the requirements for state accreditation or approval.

(3) **RESIDE.** To sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory.

(4) **RESIDENCE.** A place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory.

(5) **SEX OFFENDER.** An individual who has been convicted of a crime listed in Neb. RS 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act.

(6) **SEXUAL PREDATOR.** An individual who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under Neb. RS 29-4013, and who has victimized a person eighteen (18) years of age or younger.

(C) *Sex predator residency restrictions; penalties; and exceptions.*

(1) *Prohibited location of residence.* It is unlawful for any for any sexual predator to reside within five hundred (500) feet from a school or child care facility.

(2) *Measurement of distance.* 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 to the nearest outer property line of a school or child care facility.

(3) *Penalties.* A person who violates this section shall be punished as provided generally in the code.

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(4) *Exceptions.* This section shall not apply to a sexual predator who:

(a) Resides within a prison or correctional or treatment facility operated by the state or a political subdivision;

(b) Established a residence before July 1, 2006, and has not moved from that residence;
or

(c) 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. (*Ref. 29-4001 - 29-4013 RS Neb.*) (*Ord. No. 848, 3/14/06; Amended by Ord. No. 852, 7/11/06*)

ARTICLE 4: PENAL PROVISIONS

§ 6-401 VIOLATION; PENALTY.

(Repealed by Ord. No. 744, 7/11/00)

For penalty provisions, see section 12-101 of Chapter 12.

§ 6-402 ABATEMENT OF NUISANCE.

(Repealed by Ord. No. 744, 7/11/00)

For penalty provisions, see section 12-101 of Chapter 12.

