

Chapter 6

POLICE REGULATIONS

Article 1. Animals

§6-101 ANIMALS; DEFINITIONS. For the purposes of this Article the following terms or phrases shall have the following meanings:

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.

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of the City, and includes any local law enforcement agency or other agency designated by the City to enforce the animal control laws of the City.

ANIMAL CONTROL OFFICER. Any individual designated, employed, appointed, or authorized by an Animal Control Authority for the purpose of aiding in the enforcement of this Chapter or of any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and also shall include any state or local law enforcement officer as well as any other state or local employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

BEARBAITING. The pitting of any animal against a bear.

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

COCKFIGHTING. The pitting of a fowl against another fowl.

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.

DANGEROUS ANIMAL.

(1) It shall be unlawful for any person to keep or harbor a dangerous animal, except as otherwise provided in this Chapter. For the purposes of this Chapter, a **DANGEROUS ANIMAL** is any animal that, according to the records of the Animal Control Authority:

- (a) Has killed a human being;
- (b) Has inflicted injury on a human being that requires medical treatment;
- (c) Has killed or inflicted serious injury on a domestic animal without provocation;
- (d) Ferociously and without provocation has attacked, snapped at, or bitten one or more human beings, or one or more other domestic animals, one or more times, or has a history of any of such behaviors;
- (e) Has been previously determined to be a potentially dangerous animal by the Animal Control Authority of the City, the owner of which has received notice from the Animal Control Authority of the City of such determination, and that inflicts an injury on a

human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

(f) Is owned or harbored primarily or in part for the purpose of animal fighting;
or

(g) By training, disposition, or behavior poses a potential risk of attacking and inflicting injury without provocation upon human beings or other domestic animals.

(2) No animal may be declared to be a dangerous animal:

(a) If it inflicts injury or damage upon a human being committing a willful trespass or other tort upon premises occupied by the owner of the animal or upon a human being committing or attempting to commit a crime;

(b) For taking action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault;

(c) If the individual was tormenting, abusing, or assaulting the animal at the time of the injury or has, in the past, been observed or reported to have tormented, abused or assaulted the animal

(d) If the injury, damage, or threat was sustained by an individual who, at the time, was tormenting, abusing or assaulting the animal, or has, in the past, been observed or reported to have tormented, abused or assaulted the animal.

(3) No animal used in lawful activities of law enforcement officials shall be declared to be a dangerous animal.

DOG FIGHTING. The pitting of a dog against another dog.

DOMESTIC ANIMAL. Any dog or cat or livestock. Livestock includes buffalo, deer, antelope, fowl and any other animal in any zoo, wildlife park, refuge, wildlife area or nature center intended to be on exhibit.

FOWL. Common domesticated gallinaceous birds including, but not limited to ducks, geese, chickens and pigeons.

HYBRID ANIMAL. Any animal which is the product of the breeding of a domestic dog with a nondomestic canine species.

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 city or any city or village, or any other public official authorized by the city 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.

MEDICAL TREATMENT. Treatment administered by a physician or other licensed health care professional that results in one (1) or more sutures, surgery, or treatment for one (1) or more broken bones.

OWN (unless otherwise specified). To possess, keep, harbor, or have control of, charge of, or custody of a domestic or hybrid animal. This term does not apply to domestic or hybrid animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than thirty (30) days.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of any domestic or hybrid animal or permitting a domestic animal to habitually be or remain on or be lodged or fed within such person's house, yard or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic animals owned by other persons for a period of not more than thirty (30) days.

PITTING. Bringing animals together in combat.

POTENTIALLY DANGEROUS ANIMAL.

- (1)
 - (a) Any animal that, when unprovoked, inflicts an injury on a human being that does not require medical treatment, either on public or private property;
 - (b) Any animal that, when unprovoked, injures a domestic animal, either on public or private property;
 - (c) Any animal that, when unprovoked, chases or approaches a person who is upon a street, sidewalk, or any other public ground or public area, in a menacing or threatening fashion or apparent attitude of attack; or
 - (d) Any specific animal with a known propensity, tendency, or disposition to attack when unprovoked, or to cause injury, or to threaten the safety of human beings or domestic animals.
- (2) No animal may be declared to be a potentially dangerous animal:
 - (a) If it inflicts injury or damage upon a human being committing a willful trespass or other tort upon premises occupied by the owner of the animal or upon a human being committing or attempting to commit a crime;
 - (b) For taking action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault.
- (3) No animal used in lawful activities of law enforcement officials shall be declared to be a potentially dangerous animal.

RUNNING AT LARGE. Any domestic animal found off the premises of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

SERIOUS INJURY ON A DOMESTIC ANIMAL. An injury to a domestic animal that requires treatment administered by a veterinarian, veterinary clinic, veterinary hospital, or veterinary office, that results in one (1) or more sutures, surgery, or treatment for one (1) or more broken bones.

UNUSUAL ANIMAL. Any poisonous or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the City of Springfield or by federal requirements, and also:

- (1) Class Mammalia; order Carnivora, family Felidae (such as lions, tigers, jaguars, leopards, bobcats and cougars), except commonly accepted domestic cats and hybrids involving the same; family Canidae (such as wolves, coyotes, and fox); family

Mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink and badgers); family Procyonidae (such as raccoons); family Ursidae (such as bears); order Primata (such as monkeys and chimpanzees); and order Chiroptera (such as bats).

(2) Poisonous reptiles, cobras, and their allies (Elapidae, Hydrophiidae); vipers and their allies (Croctiladae, Viperidae); boonslangs and Kirkland's tree snakes; and Gila monsters (Heleodermatidae).

VACCINATION AGAINST RABIES. The inoculation of a domestic or hybrid animal with a rabies vaccine as approved by the rules and regulations adopted and promulgated by the Department of Health and Human Services Regulation and Licensure.

(Ref. 65-617, 28-2008, 71-4401 RS Neb.) (Ord. No. 318, 3/13/90) (Amended by Ord. Nos. 336, 1/8/91; 337. 1/8/91; 642, 6/1/04; 697, 1/3/06; 828, 10/16/12)

§6-102 ANIMALS; CONTRACTING FOR ANIMAL CONTROL SERVICES. (1) The Mayor and City Council, in lieu of utilizing City employees, may contract with humane societies or others for the performance of all or a part of the services required to carry out the provisions of this chapter.

(2) During such time as such services are under contract, then to the extent said services are contracted:

(a) The Humane Society or other contractor shall generally perform the duties prescribed by ordinance to be performed by the Animal Control Officer.

(b) The Humane Society or other contractor shall be authorized to issue animal licenses, collect license fees, maintain licensing records and to perform such other duties as are prescribed by ordinance to be performed by the City Clerk in connection with the control of animals and the licensing thereof.

(c) The Mayor and City Council may by resolution deputize the employees of such Humane Society or other contractor for the limited purpose of issuing complaints and citations for the violation of this chapter. However, such deputization shall not include the authority to make arrests of persons for such violations, and any such arrests shall be made by regular law enforcement officers. *(Ord. No. 642, 6/1/04)*

§6-103 ANIMALS; ANIMAL SHELTER. The facility designated by the City to serve as the City's Animal Shelter shall be safe, suitable, and conveniently located for the impounding, keeping, and destruction of animals. The said Shelter shall be sanitary, ventilated, and lighted. *(Ref. 17-548 RS Neb.) (Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04)*

§6-104 ANIMALS; INTERFERENCE WITH POLICE. It shall be unlawful for any person to hinder, delay, or interfere with any Municipal Policeman, the Animal Control Officer, or authorized designee, who is performing any duty enjoined upon him by the provisions of this Article, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of the Animal Shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of animals to the Shelter. *(Ref. 28-906 RS Neb.) (Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04)*

§6-105 ANIMALS; IMPOUNDING. It shall be the duty of the Municipal Police, Animal Control Officer, or his designee, to capture, secure, and remove in a humane manner to a shelter arranged for by the Municipality any animal violating any of the provisions of this Article. The animals 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 animal shall be kept and maintained at the pound for a period of not less than five (5) days. Notice of impoundment of all animals shall be made to the owner if the owner is known. Any animal may be reclaimed by its owner during the period of impoundment by payment to the City Clerk or the impounding authority, the actual costs associated with the impoundment as determined by the impound facility. The owner shall then be required to comply with the licensing and rabies vaccination requirements within seventy-two (72) hours after release. If the animal is not claimed at the end of five (5) days, the approved Animal Control Authority may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, that if, in the judgment of the approved Animal Control Authority, a suitable home can be found for any such animal, the said animal 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 for in this Article. The Municipality shall acquire legal title to any unlicensed animal impounded in the Animal Shelter for a period longer than five (5) days. All animals 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 animal. *(Ref. 17-548, 71-4408 RS Neb.) (Amended by Ord. Nos. 191, 4/4/78; 237, 4/5/83; 351, 4/20/93; 537, 2/19/02; 642, 6/1/04)*

§6-106 ANIMALS; DOGS AND CATS; LICENSE. (1) Any person who shall own, keep, or harbor a dog or cat over the age of six (6) months within the Municipality shall within ten (10) days after acquisition of the said dog or cat acquire a license for each such dog or cat annually by or before January 1 of each year. The said license fee shall be delinquent from and after March 15; provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to January 1 of any year, shall be liable for the payment of the dog and cat license fee. Fees for licenses after the delinquent date shall be double the normal fee; however, the Animal Control Authority may waive said fee at their discretion. It shall be unlawful to own or harbor any dog or cat without acquiring and maintaining a license as prescribed by this section. Licenses shall be issued by the Animal Control Authority, or authorized designee, upon the payment of a license fee. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog or cat. 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 or cat owned and kept by him or her. Proof of sterilization and current rabies vaccination for the ensuing year of the license must accompany all license applications. The Animal Control Authority may charge a handling/issuance fee for each license not to exceed the amount specified by the most recent Springfield fee ordinance.

(2) License fees and delinquent fees shall be approved and adopted by resolution or ordinance. *(Ref. 54-603, 71-4412 RS Neb.) (Amended by Ord. Nos. 191, 4/4/78; 351, 4/20/93; 506, 1/2/01; 642, 6/1/04; 667, 11/2/04; 841, 9/17/13)*

§6-107 ANIMALS; DOGS AND CATS; LICENSE TAGS. Upon payment of the required license fee, the Animal Control Authority, or authorized designee, shall issue a numbered receipt and tag as necessary to the owner of the dog or cat licensed. Tags shall be issued annually or at another interval determined by the Animal Control Authority. The Animal Control Authority may recognize a microchip identification number as the license number and the microchip shall substitute for the physical tag. Physical tags shall be properly attached to the collar or harness of all dogs and cats so licensed and shall entitle the owner to keep or harbor the said dog or cat until December 31 following such licensing. It shall be unlawful to own or harbor any dog or cat that does not have a license properly attached to the animal as prescribed by this section. All license fees and collections shall be immediately credited to the General Fund except in such cases where the Animal Control Authority is the licensing authority, fund disposition shall be in compliance with the Animal Control Authority contract. (*Ref. 17-526, 54-603 RS Neb.*) (*Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04; 667, 11/2/04; 841, 9/17/13*)

§6-108 ANIMALS; DOGS AND CATS; WRONGFUL LICENSING. It shall be unlawful for the owner, keeper, or harbinger of any dog or cat to permit or allow such dog or cat to wear any license, metallic tag or other Municipal identification than that issued by the Municipal Clerk, the Animal Control Authority, or authorized designee, for dogs or cats, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unaltered dog or cat with a license prescribed for an altered dog or cat. (*Ref. 17-526, 54-603 RS Neb.*) (*Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04*)

§6-109 ANIMALS; DOGS AND CATS; UNLICENSED. It shall be unlawful to own or harbor any dog or cat without acquiring and maintaining a license that is properly secured to the animal. (*Ref. 17-526, 71-4408 RS Neb.*) (*Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04; 667; 11/2/04*)

§6-110 ANIMALS; DOGS AND CATS; 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 or cat without the consent of the owner, keeper, or possessor thereof. (*Ref. 17-526 RS Neb.*) (*Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04*)

§ 6-111 ANIMALS; DOG GUIDES, HEARING AID DOGS, AND SERVICE DOGS: EXEMPT FROM LICENSE TAX. Every service animal shall be licensed as required by the Municipal Code, 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.*) (*Ord. No. 459, 8/4/98*) (*Amended by Ord. No. 642, 6/1/04*)

§6-112 ANIMALS; VACCINATION REQUIRED. (A) Every animal required to be licensed by this Chapter shall be vaccinated against rabies within thirty (30) days after they have reached three (3) months of age, one (1) year after initial vaccination, and thereafter triennially, according to vaccine manufacturers' guidelines. Unvaccinated animals acquired or moved into the state must be vaccinated within thirty (30) days after purchase or arrival, unless under three months of age as specified above.

(B) An animal is currently vaccinated if the initial rabies vaccine was administered at least twenty-eight (28) days previously or booster vaccinations have been administered in accordance with the manufacturers' guidelines. Regardless of the age of the animal at initial vaccination, a booster vaccination shall be administered one (1) year later. If a previously vaccinated animal is overdue for a booster, it shall be revaccinated.

(C) An owner or keeper of any animal required to be licensed by this Chapter to be vaccinated by a licensed veterinarian is exempt from the requirements of this section if a medical reason exists that precludes the vaccination of the animal. To qualify for this exemption, the owner or keeper must have a written statement signed by a licensed veterinarian that includes a description of the animal and the medical reason that precludes vaccination. (*Ord. No. 642, 6/1/04*) (*Amended by Ord. Nos. 667, 11/2/04; 828, 10/16/12*)

§6-113 ANIMALS; DOGS AND CATS; REVACCINATION REQUIRED. Every dog or cat shall be revaccinated following a period of not more than thirty-six (36) months since its last vaccination with chick embryo, LEP (low egg passage), flurry vaccine or with killed or inactivated vaccine. The intervals of any other anti-rabies vaccine shall be set by the state veterinarian, and he shall follow the latest recommendations of the United State Public Health Service. (*Ord. No. 642, 6/1/04*) (*Amended by Ord. Nos. 667, 11/2/04; 828, 10/16/12*)

§6-114 ANIMALS; MAXIMUM NUMBER ALLOWED. It shall be unlawful for any person to own, keep or harbor at any time more than two (2) adult dogs, two (2) adult cats, or two (2) adult rabbits per residential or dwelling unit in the City. The total number of adult dogs, adult cats or adult rabbits per residential dwelling unit in the City shall not exceed four (4) adult animals. For the purpose of this section, an adult dog, cat or rabbit is a dog, cat or rabbit that is more than four (4) months old. Provisions of this section shall not apply to catteries, kennels, and pet stores which have been licensed pursuant to City and State regulations. (*Ord. No. 642, 6/1/04*)

§6-114.01 ANIMALS; FOWL; MAXIMUM NUMBER ALLOWED. It shall be unlawful for any person to own, keep or harbor at any time more than six (6) adult fowl per residential or dwelling unit in the City. For the purpose of this section, an adult fowl is a fowl that is more than four (4) months old. (*Ord. No. 697, 1/3/06*)

§6-114.02 ANIMALS; UNUSUAL ANIMALS AND LIVESTOCK ANIMALS PROHIBITED; EXCEPTIONS. It shall be unlawful for any person to own, harbor, or have under his or its care, custody, or control any unusual animal or livestock animal within the corporate limits of the City, except as provided in this section and Article. It shall be unlawful for any pet shop to sell, give, transfer, import into the corporate limits any unusual animal or livestock animal. This section shall not be construed to prohibit:

(A) Public owned and operated zoo, traveling circus, Humane Society, county fair, sanctioned rodeo, or other public owned and operated exhibition or carnival from displaying unusual animals or livestock animals as exhibits;

(B) Primary or secondary schools, colleges or universities from using unusual animals or livestock animals for research or teaching;

(C) Wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission from rehabilitation or sheltering unusual animals;

(D) Individuals authorized by the State of Nebraska from sheltering animals belonging to a public owned and operated zoo that require rehabilitation;

(E) Veterinary clinics and animal hospitals from providing medical treatment to unusual animals or livestock animals; or

(F) Facilities offering temporary holding of livestock animals for slaughter and sale barns;

(G) Equine boarded on lots larger than four (4) acres, provided, however, that no lot shall have more than four (4) equine boarded. (*Ord. No. 828, 10/16/12*)

§6-115 ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY. A person who intentionally, knowingly, or recklessly abandons, cruelly mistreats, or cruelly neglects an animal is guilty of an offense. It shall be unlawful to commit cruelty to animals. (*Ref. 28-1009 RS Neb.*) (*Ord. No. 337, 1/8/91*) (*Amended by Ord. Nos. 642, 6/1/04; 667, 11/2/04*)

§6-116 ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY. (1) Any 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) Any 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 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.

(4) A person who abandons, cruelly neglects, or cruelly mistreats an animal is guilty of an offense. (*Ref. 28-1012 RS Neb.*) (*Ord. No. 337, 1/8/91*) (*Amended by Ord. No. 642, 6/1/04*)

§6-117 ANIMALS; RABIES SUSPECTED. (1) (a) Any animal which is owned by a person and has bitten any person or caused an abrasion of the skin of any person shall be seized by the rabies control authority for a period of not less than ten (10) days if:

1. The animal is suspected of having rabies, regardless of the species and whether or not the animal has been vaccinated;

2. The animal is not vaccinated and is a dog, cat, or another animal of a species determined by the department to be a rabid species; or

3. The animal is of a species which has been determined by the department to be a rabid species not amenable to rabies protection by immunization, whether or not the animal has been vaccinated.

(b) If, after observation and examination by a veterinarian, at the end of the ten (10)-day period the animal shows no clinical signs of rabies, the animal may be released to its owner.

(2) (a) Except as provided in division (2)(b) of this section, whenever any person has been bitten or has an abrasion of the skin caused by an animal owned by another person, which animal has been vaccinated in accordance with state law, or if such an injury to a person is caused by an owned dog, cat, or other animal determined by the department to be a rabid species amenable to rabies protection by immunization which has been vaccinated, the animal shall be confined by the owner or other responsible person as required by the rabies control authority for a period of at least ten (10) days and shall be observed and examined by a veterinarian at the end of the ten (10)-day period. If no clinical signs of rabies are found by the veterinarian, the animal may be released from confinement.

(b) A vaccinated animal owned by a law enforcement or governmental military agency which bites or causes an abrasion of the skin of any person during training or the performance of the animal's duties may be confined as provided in division (2)(a) of this section. The agency shall maintain ownership of and shall control and supervise the actions of the animal for a period of fifteen (15) days following the injury. If during such period the death of the animal occurs for any reason, a veterinarian shall within twenty-four (24) hours of the death examine the tissues of the animal for clinical signs of rabies.

(3) Any dog, cat, or other animal of a rabid species which has bitten a person or caused an abrasion of the skin of a person and which is unowned or the ownership of which cannot be determined within seventy-two (72) hours of the time of the bite or abrasion shall be immediately subject to any tests which the department believes are necessary to determine whether the animal is afflicted with rabies. The seventy-two (72)-hour period shall include holidays and weekends and shall not be extended for any reason. The tests required by this subsection may include tests which require the animal to be destroyed.

(Ref. 71-4406 RS Neb.) (Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04)

§6-118 ANIMALS; RUNNING AT LARGE. It shall be the duty of the Municipal Police, the Animal Control Officer, or authorized designee, to cause any domestic animal found to be running at large within the Municipality to be taken up and impounded. 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 dog, cat, horse, mule, cow, sheep, goat, swine, or other domestic animal to be driven or run at large on any of the public ways and property, or upon the property of another. It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or other fowls to run at large within the corporate limits, except in enclosed places on private property. *(Ref. 17-547, 17-526 RS Neb) (Amended by Ord. Nos. 642, 6/1/04; 667, 11/2/04)*

§6-119 ANIMALS; ENCLOSURES. All pens, cages, sheds, yards, or any other area or enclosure for the confinement of domestic 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. *(Amended by Ord. No. 642, 6/1/04)*

§6-120 ANIMALS; PITTING; PROHIBITED. (A) (1) No person shall knowingly:

- (a) Promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another;
- (b) Receive money for the admission of another person to a place kept for such purpose;
- (c) Own, use, train, sell, or possess an animal for such purpose; or
- (d) Permit any act as described in this division (A)(1) to occur on any premises owned or controlled by him or her.

(2) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in division (A)(1) of this section. (*Ref. 28-1005 RS Neb.*)

(B) (1) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of this section.

(2) (a) For purposes of this section, except as provided in subdivision (B)(2)(b) of this subsection, ANIMAL FIGHTING PARAPHERNALIA means equipment, products, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of the pitting of an animal against another as defined in § 6-101. ANIMAL FIGHTING PARAPHERNALIA includes, but is not limited to, the following:

1. A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;
2. A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;
3. A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;
4. A fighting pit, which means a walled area designed to contain an animal fight;
5. A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;
6. A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;
7. A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and
8. Any other instrument commonly used in the furtherance of pitting an animal against another.

(b) ANIMAL FIGHTING PARAPHERNALIA does not include equipment, products, or materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state.

(3) Any person violating division (B)(1) of this section is guilty of a Class I misdemeanor. (*Ref. 28-1005.04 RS Neb.*)

(*Ord. No. 336, 1/8/91*) (*Amended by Ord. Nos. 642, 6/1/04; 667, 11/2/04*)

§6-121 ANIMALS; PITTING; SPECTATORS PROHIBITED. No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in this Article. (Ref. 28-1005 RS Neb.) (Ord. No. 336, 1/8/91) (Amended by Ord. No. 642, 6/1/04)

§6-122 ANIMALS; PROCLAMATION. It shall be the duty of the Governing Body whenever in its opinion the danger to the public safety from rabid animals is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any animal 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 animals 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 animal to confine the same as herein provided. (Ref. 17-526 RS Neb.) (Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04)

§6-123 ANIMALS; CAPTURE IMPOSSIBLE. The Municipal Police, the Animal Control Authority, or authorized designee, 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.) (Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04)

§6-124 ANIMALS; VICIOUS. (Repealed by Ord. 828, 10/16/12)

§6-125 ANIMALS; DANGEROUS; RESTRAINED. (Repealed by Ord. 828, 10/16/12)
§ 6-126 Police Regulations § 6-131

§6-126 ANIMALS; DANGEROUS; CONFINED. (Repealed by Ord. 828, 10/16/12)

§6-127 ANIMALS; DANGEROUS; FAILURE TO COMPLY. (Repealed by Ord. 828, 10/16/12)

§6-128 ANIMALS; DANGEROUS; ADDITIONAL REGULATIONS. (Repealed by Ord. 828, 10/16/12)

§6-129 ANIMALS; DESTRUCTION OF PROPERTY; OWNER LIABILITY. It shall be unlawful for any person to allow a domestic animal 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 domestic animal, 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.) (Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04)

§6-130 ANIMALS; OWNER LIABILITY. Any person defined as an owner under this Article shall be deemed to be liable for all penalties herein prescribed. *(Ref. 54-606, 71-4401 RS Neb.) (Amended by Ord. Nos. 351, 4/20/93; 642, 6/1/04)*

§6-131 ANIMALS; EQUINE; BOVINE; PROHIBITED ACTS.

(1) (a) No person shall intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest.

(b) The intentional tripping or causing to fall, or lassoing or roping the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests. *(Ref. 54-911 RS Neb.)*

(2) (a) No person shall intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest.

(b) The intentional tripping, causing to fall, or dragging of any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest shall not be considered a commonly accepted practice occurring in conjunction with sanctioned rodeos, animal racing, or pulling contests. *(Ref. 54-912 RS Neb.)*

§6-132 ANIMALS; PUBLIC NUISANCES. (A) It shall be unlawful for any person owning, keeping or harboring an animal or allowing such animal to be under his charge or control to do any of the following:

(1) Permit an animal to defecate on any privately owned or occupied property other than that of the owner or the person having control of the animal without immediately cleaning or removing the excrement;

(2) Permit an animal to defecate on public property, including designated off leash dog parks, without immediately cleaning or removing the excrement;

(3) Permit an animal to unreasonably obstruct the use and enjoyment of property held by others in the community by allowing such animal to habitually bark, howl, yelp, bay or make other noise which by loudness or frequency causes a breach of the peace; provided, however, this section shall not apply to the Animal Shelter, veterinarians, and medical laboratories;

(4) Permit unsanitary conditions to exist on any premises where an animal is kept which would cause foul or obnoxious odors, attract flies or vermin or otherwise threaten the public health and safety;

(5) Permit an animal to engage in menacing behavior including but not limited to the chasing of vehicles or the molesting, or frightening of passersby or neighbors.

(B) An Animal Control Officer may abate any of the above nuisances, either through issuance of a citation or impounding the animal, if no owner or agent can be found at the time of the nuisance. *(Ord. No. 828, 10/16/12)*

§6-133 ANIMALS; SEIZURE AND CONFINEMENT. (A) It shall be the duty of the Animal Control Authority to capture, secure, and remove to the Animal Shelter or other suitable impoundment or care facility, in as humane manner as is practicable under the circumstances, any

animal running at large, owned, kept, harbored, or confined in violation of this Chapter. The animals 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 animal shall be kept and maintained at the Animal Shelter, impoundment, or other care facility for a period of not less than five (5) days after public notice has been given unless keeping or harboring the animal is lawful within the City and the animal has been reclaimed earlier by its owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Animal Control Authority within twenty-four (24) hours after impoundment as public notification of such impoundment.

(B) If keeping or harboring the impounded animal is lawful within the City, then such animal may be reclaimed by its owner during the period of impoundment by payment of the required fees as set by the Animal Control Authority. The owner shall then be required to comply with applicable licensing and rabies vaccination requirements within seventy-two (72) hours after release. If the animal 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 animal in accordance with the applicable rules and regulations pertaining to the same, provided that if, in the judgment of the Animal Control Authority, a suitable home can be found for any such animal, the animal shall be turned over to that person and the new owner shall then be required to pay all fees and comply with all applicable licensing and vaccinating requirements provided in this Chapter.

(C) The City and/or Animal Control Authority shall acquire legal title to any unlicensed animal impounded in the Animal Shelter for a period longer than the required waiting period after giving notice.

(D) All expenses of licensing such animals and maintaining the City dog pound and the salary of the Humane Officer shall be paid out of the General Fund of the City, and all sums collected by the City Clerk for animal licensing and all impounding charges collected shall be deposited to and become a part of the General Fund of the City, unless otherwise provided for by a contract entered into pursuant to § 6-102 of this Chapter. (*Ord. No. 828, 10/16/12*)

§6-134 ANIMALS; POTENTIALLY DANGEROUS ANIMAL; DETERMINATION; RIGHTS OF ANIMAL CONTROL OFFICE.

(A) The preliminary determination as to whether a particular animal is a potentially dangerous animal shall be made by the City's Animal Control Authority on the basis of reasonable evidence, which may include but shall not be limited to reports and statements of witnesses, observation, and the opinion of experts. If the Animal Control Officer has reasonable cause to believe that the animal threatens the safety of the public or of domestic animals, the Animal Control Officer may enter upon any premises upon which the animal is kept and remove the animal from those premises to a place of impoundment.

(B) If the Animal Control Authority has preliminarily determined an animal to be a potentially dangerous animal as defined in § 6-101, the Animal Control Authority shall initiate administrative proceedings to make such determination final by serving a preliminary determination notice on such animal's owner either:

- (1) Personally;
- (2) By certified mail, return receipt requested, addressed to the owner at the owner's usual place of residence; or

(3) By residence service, which shall mean leaving a copy at the owner's usual place of residence with some person of suitable age and discretion residing therein. The preliminary determination notice shall contain:

(a) The name and address of the owner whose animal is the subject of the proceeding;

(b) The name, description and any known license number of the animal that is the subject of the proceeding;

(c) A statement that the Animal Control Authority has preliminarily determined the animal to be a potentially dangerous animal and a summary description of the facts that form the basis of such preliminary determination;

(d) A summary of the effects of a final determination that the animal is a potentially dangerous animal, including a summary or copy of the requirements of §§ 6-136, 6-137, 6-138, and 6-139, and a statement that noncompliance by the owner with such requirements will result in the owner being declared a reckless owner by the animal control authority;

(e) A statement of the effective date on which the preliminary determination notice will become a final determination order if the owner does not file a timely written request for hearing with the Animal Control Authority, which effective date shall be not less than ten (10) days after the date of mailing (or of personal or residence service) of the preliminary determination notice; and

(f) A statement that the owner may file with the City's Animal Control Authority a written request for hearing within ten (10) days after the date of the mailing (or within ten days after the personal or residence service) of the preliminary determination notice.

(C) If the owner whose animal is preliminarily determined to be a potentially dangerous animal does not file a written request for hearing with the Animal Control Authority within ten (10) days after the date of mailing (or within ten (10) days after the personal or residence service) of the preliminary determination notice, the preliminary determination notice shall become a final determination order on the effective date stated in the preliminary determination notice, and the City's Animal Control Authority shall so indicate in the records of the Animal Control Authority. In such a case, the owner shall comply with § 6-139 immediately, with §§ 6-136 and 6-137 within thirty (30) days after such effective date, and with § 6-138 within ninety days after such effective date. If the owner fails to comply with any of such sections within the time limits specified, the Animal Control Authority shall initiate administrative proceedings under § 6-135 to declare the owner a reckless owner.

(D) If the owner whose animal is preliminarily determined to be a potentially dangerous animal files a written request for hearing with the Animal Control Authority within ten (10) days after the date of mailing (or within ten (10) days after the personal or residence service) of the preliminary determination notice, a hearing on such preliminary determination notice shall be held by a Hearing Officer designated by the Animal Control Authority. The hearing shall be held if practicable within ten (10) days after the date of receipt by the Animal Control Authority of the written request for hearing. Written notice of the time and place of hearing shall be served on the owner of the animal by personal service, or by residence service as described in division (B) above, not less than forty-eight (48) hours prior to the scheduled hearing. At the hearing, the owner shall be

provided an opportunity to appear and offer evidence to dispute the preliminary determination notice. A written determination to affirm or reverse the preliminary determination notice shall be entered by the Hearing Officer within ten (10) days after the date of the hearing, if practicable. If the preliminary determination notice is affirmed, the Hearing Officer shall enter a final determination order and, unless the owner initiates a timely appeal under division (E) below, such order shall require the owner to comply with § 6-139 immediately, with §§ 6-136 and 6-137 within thirty (30) days after the entry of the final determination order, and with § 6-138 within ninety (90) days after entry of the final determination order. If the owner fails to comply with any of such sections within the time limits specified, the Animal Control Authority shall initiate administrative proceedings under § 6-135 to declare the owner a reckless owner.

(E) Within ten (10) days after the date of the Hearing Officer's decision, either the owner aggrieved by a decision of the Hearing Officer or the Animal Control Authority may appeal such decision to the City of Springfield Board of Health in such manner and in accordance with such procedures as the Board of Health may establish by rule or regulation. The Board of Health may affirm or reverse the decision of the Hearing Officer and shall be empowered to enter any order the Hearing Officer might have entered. If so ordered by the Board of Health, the owner shall comply with § 6-139 immediately, with §§ 6-136 and 6-137 within thirty (30) days after the entry of the order, and with § 6-138 within ninety (90) days after entry of the order. If the owner fails to comply with any of such sections within the time limits specified, the Animal Control Authority shall initiate administrative proceedings under § 6-135 to declare the owner a reckless owner.

(F) The Animal Control Authority will notify the owner of any potentially dangerous dog that has been involved in no incidents of the type specified in § 6-101 during the two (2) years following the date of the determination order, that their dog is no longer declared a potentially dangerous dog. (*Ord. No. 828, 10/16/12*)

§6-135 ANIMALS; RECKLESS OWNER. (A) If an owner has been convicted of one or more violations of this chapter on three (3) separate occasions in any period of twenty-four (24) consecutive months, the Animal Control Authority shall initiate administrative proceedings to declare such owner a reckless owner and to revoke all pet license(s) issued to such owner that are associated with the owner's animal(s) that were the subject or subjects of any of such convictions. If an owner's animal has been determined to be a dangerous animal or a potentially dangerous animal and such owner has not complied in a timely manner with the requirements of this Chapter pertaining to such animals, the Animal Control Authority shall initiate administrative proceedings to declare such owner a reckless owner and to revoke all pet license(s) issued to such owner that are associated with such animal. In either case, such proceedings shall be instituted by service of a written declaration and revocation notice upon such owner, either:

- (1) Personally;
- (2) By certified mail, return receipt requested, addressed to the owner at the owner's usual place of residence; or
- (3) By residence service, which shall mean leaving a copy at the owner's usual place of residence with some person of suitable age and discretion residing therein. The declaration and revocation notice shall contain:

(a) The name and address of the owner who is subject to such declaration and revocation notice;

(b) The name(s), description(s) and license number(s) of any animal(s) associated with such violations licensed to the owner;

(c) A description of the violations or requirements which form the basis of such declaration and revocation notice, including the case numbers, if any;

(d) A summary of the effects of such declaration, including the revocation of such pet license(s) and surrender to the animal control authority of such animal(s);

(e) The date the Animal Control Authority proposes to enter a final declaration and revocation order, which shall be not less than ten (10) days after the date of mailing (or of personal or residence service) of the notice, and

(f) A statement that the owner may file with the City's Animal Control Authority a written request for hearing within ten (10) days after the date of the mailing (or within ten (10) days after the personal or residence service) of the declaration and revocation notice.

(B) If the owner does not file a written request for hearing within ten (10) days after the date of mailing (or within ten (10) days after the personal or residence service) of the declaration and revocation notice, then such declaration and revocation notice automatically shall become a final declaration and revocation order, and within twenty-four (24) hours after the expiration of such ten (10)-day period the owner shall surrender such animal(s) to the Animal Control Authority. Failure to surrender such animal(s) shall result in immediate impoundment by the Animal Control Authority in accordance with § 6-133. Such surrendered or impounded animal(s) shall immediately become the property of the Animal Control Authority and may be disposed of or destroyed humanely by the Animal Control Authority, or placed with a new owner, as the authority deems appropriate.

(C) If the owner files a written request for hearing within ten (10) days after the date of mailing (or within ten (10) days after the personal or residence service) of the declaration and revocation notice, a hearing on such declaration and revocation notice shall be held by a Hearing Officer designated by the Animal Control Authority. The hearing shall be held if practicable within ten (10) days after the date of receipt by the Animal Control Authority of the written request for hearing. Written notice of the time and place of hearing shall be served on the owner of the animal by personal service, or by residence service as described in division (A) above, not less than forty-eight (48) hours prior to the scheduled hearing. At the hearing, the owner shall be provided an opportunity to appear and offer evidence to dispute the declaration and revocation notice. A written determination to affirm or reverse such declaration and revocation notice shall be entered by the Hearing Officer within ten (10) days after the date of the hearing if practicable. If the decision is to affirm the declaration and revocation notice, the Hearing Officer shall enter a final declaration and revocation order requiring the owner to surrender such animal(s) to the Animal Control Authority within ten (10) days after the date of the Hearing Officer's decision, unless the owner initiates a timely appeal from such decision under division (D) below.

(D) Within ten (10) days after the date of the Hearing Officer's decision, either the owner aggrieved by a decision of the Hearing Officer or the Animal Control Authority may appeal such decision to the City of Springfield Board of Health in such manner and in accordance with such procedures as the Board of Health may establish by rule or regulation. The Board of Health may

affirm or reverse the decision of the Hearing Officer and shall be empowered to enter any order the Hearing Officer might have entered.

(E) An owner who is declared a reckless owner shall be prohibited from licensing, residing with, or owning any additional animal(s) in the City for a period of forty-eight (48) consecutive months from the date of entry of the declaration and revocation order. (*Ord. No. 828, 10/16/12*)

§6-136 ANIMALS; DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS; SPAYING OR NEUTERING; MICROCHIP IDENTIFICATION AND LICENSE REQUIRED. Any animal judicially determined to be a dangerous animal (but not ordered to be destroyed), and any animal administratively finally determined to be a potentially dangerous animal, shall be spayed or neutered and implanted with microchip identification by a licensed veterinarian at the owner's expense within thirty (30) days after such determination is entered, and written proof of spaying or neutering and of microchip identification number implantation shall be provided to the Animal Control Authority within seventy-two (72) hours after completion of the procedure. In addition, such dangerous or potentially dangerous animal shall be required to be licensed as a dangerous or potentially dangerous animal within thirty (30) days after the determination. (*Ord. No. 828, 10/16/12*)

§6-137 ANIMALS; DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS; PROOF OF INSURANCE. No animal judicially determined to be a dangerous animal or administratively determined to be a potentially dangerous animal shall be licensed unless the person having custody, ownership or control of such animal first presents to the Animal Control Authority written proof of liability insurance, written by an insurer authorized to issue such insurance in Nebraska, having limits of liability of not less than one hundred thousand dollars (\$100,000) for injury to anyone person caused by such animal. Such insurance shall be maintained in effect for the entire period such animal is deemed to be a dangerous animal or potentially dangerous animal. The Animal Control Authority may require proof that such insurance coverage remains in effect at any time, but not more frequently than every sixty (60) days, or may require such policy of insurance to provide that it may not be cancelled or allowed to expire without thirty (30) days prior written notice to the Animal Control Authority. (*Ord. No. 828, 10/16/12*)

§6-138 ANIMALS; DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS; CLASSES REQUIRED. The owner of any animal judicially determined to be a dangerous animal or administratively determined to be a potentially dangerous animal shall be required to attend, within ninety (90) days after such determination is entered and at the owners expense, a responsible pet ownership class approved by the Animal Control Authority and, at the discretion and direction of the Animal Control Authority, an animal behavior class provided or approved by the Animal Control Authority. (*Ord. No. 828, 10/16/12*)

§6-139 ANIMALS; DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS; LEASH, MUZZLE AND HARNESS REQUIRED. (A) It shall be unlawful for any person owning,

harboring, or having the care of a dangerous animal or potentially dangerous animal to permit or enable such animal to go beyond the property of such person unless the animal is under the control of a person nineteen (19) years of age or older, the animal is restrained securely by a harness and leash no more than six (6) feet in length, and the animal is properly muzzled to reasonably prevent the animal from biting.

(B) Definitions. For purposes of this section:

HARNESS. A close fitting device with straps that encircle the animal's body across the chest, over the shoulders, and under the belly behind the front legs, to which a leash can be securely attached, and which is constructed of materials sufficient to securely restrain the animal wearing it given the size and strength of the animal.

LEASH. A strap, rope or similar tethering device that can be securely attached to a harness and which is of sufficient strength and weight to securely restrain the animal wearing the harness.

MUZZLE. A basket or cage-like device approved by the Animal Control Authority to cover the animal's mouth and snout and prevent the animal from biting, but which allows the animal to open its mouth to pant and drink. (*Ord. No. 828, 10/16/12*)

§6-140 ANIMALS; DANGEROUS ANIMALS; CONFINED. No person owning, harboring, or having the care of a dangerous animal shall permit such animal to go unconfined on the premises of such person. A dangerous animal 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 children under six (6) years of age and to prevent the animal from escaping. The pen or structure, if allowed by zoning regulations, 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 no less than one (1) foot into the ground or have a concrete pad. The pen or structure shall also protect the animal from the elements. The owner of a dangerous animal shall post a clearly visible warning sign on the property where the animal is kept that informs persons that a dangerous animal is on the property. (*Ord. No. 828, 10/16/12*)

§6-141 ANIMALS; DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS; IMPOUNDMENT. Any animal that has been determined to be a dangerous animal or a potentially dangerous animal that bites a human being without provocation may be immediately impounded by an Animal Control Officer and held until disposition of the animal is finally determined. The owner shall be responsible for the reasonable costs incurred for the care of such impounded animal. (*Ord. No. 828, 10/16/12*)

§6-142 ANIMALS; DANGEROUS ANIMALS AT LARGE; DESTRUCTION. If an animal that has been determined to be a dangerous animal as defined in § 6-101 is found at large and unattended upon public property, park property, or a public right-of-way, or upon property not owned or under the control of the owner of the animal, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or his or her designee, the Animal Control Authority, the Animal Control Officer, or a law enforcement officer, be destroyed if the Authority or Officer reasonably believes the animal cannot be confined or captured without unreasonable risk of

harm to persons or property. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large nor shall it have a duty to notify the owner of such animal prior to its destruction. (*Ord. No. 828, 10/16/12*)

§6-143 ANIMALS; DANGEROUS ANIMALS; FAILURE TO COMPLY. (A) Any dangerous animal may be immediately confiscated by an Animal Control Officer if the owner is in violation of this Chapter. The owner shall be responsible for the reasonable costs incurred by the Animal Control Authority for the care of such dangerous animal confiscated by an Animal Control Officer and for the destruction of any dangerous animal if the action by the Animal Control Authority is pursuant to law and if the owner violated this Chapter.

(B) In addition to any other penalty, a court may order the Animal Control Authority to dispose of or destroy a dangerous animal in an expeditious and humane manner. (*Ord. No. 828, 10-16-12*)

§6-144 ANIMALS; IMPOUNDMENT OF CERTAIN ANIMALS DURING ENFORCEMENT PROCEEDINGS. (A) If there is reasonable cause shown that an animal would constitute a hazard to the safety of the public at large during the pendency of any action or proceeding commenced under this Chapter, or that the owner of such animal has subjected the animal to neglect or cruelty, the court may order such animal impounded pending the outcome of such proceedings. Any person who owns, kept, harbored, maintained, or controlled the animal involved in such impoundment shall pay all expenses of the impoundment to the Animal Control Authority, including costs of shelter, food, veterinary expenses, boarding, and other expenses necessitated by the impoundment of the animal or as may be required for the protection of the public. The Animal Control Authority may require such person, prior to expiration of ten (10) days after the date of impoundment, to pay an amount sufficient to pay all reasonable expenses incurred in caring and providing for the animal, including estimated medical care, for thirty (30) days, inclusive of the date on which the animal was impounded. If such payment is not made prior to expiration of such ten (10)-day period, the animal shall become the property of the Animal Control Authority and may be humanely disposed of, destroyed, or placed with a new owner, as the Animal Control Authority deems appropriate. Such payment shall be required for each succeeding thirty (30)-day period. If any such payment is not made prior to the end of each succeeding thirty (30)-day period, the animal shall become the property of the Animal Control Authority and may be humanely disposed of, destroyed, or placed with a new owner, as the Animal Control Authority deems appropriate.

(B) The amount of the payment shall be determined by the Animal Control Authority based on the current rate for board at the Animal Shelter and the condition of the animal after its examination by a veterinarian acting for the Animal Control Authority. Any such payment received by the Animal Control Authority in excess of the amount determined by the Animal Control Authority to be due for the board and care of the animal shall be refunded by the Animal Control Authority upon expiration of the order of impoundment. Notwithstanding the foregoing, if the owner of the animal is found not guilty of animal neglect or cruelty, the owner shall only be required to pay the veterinary expenses and one-half of the board and care fees determined by the Animal Control Authority to be due.

(C) Notwithstanding the foregoing, if it is determined by a veterinarian acting for the Animal Control Authority that such animal is diseased or disabled, that it would be inhumane to allow such animal to continue to suffer the effects of such disease or disability, and that the owner of such animal declines to advance the costs of reasonable veterinary efforts to cure or ameliorate the effects of such disease or disability and that the costs of such veterinary efforts are not otherwise economically practicable, then the animal shall immediately become the property of the Animal Control Authority and may be humanely disposed of, destroyed, or placed with a new owner, as the Animal Control Authority deems appropriate. (*Ord. No. 828, 10/16/12*)

Article 2. [Reserved]

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. (*Ref. 28-610 RS Neb.*)

§6-302 MISDEMEANORS; RESISTING OFFICER. It shall be unlawful for any person to refuse to assist a Municipal Officer when lawfully requested to do so by him. Any person who refuses to assist an officer when lawfully requested to do so shall be fined in any amount not exceeding fifty dollars (\$50.00).

§6-303 MISDEMEANORS; ABUSING OFFICER. It shall be unlawful for any person to abuse a police officer or Municipal official in the execution of his office. (*Ref. 28-729 RS Neb.*)

§6-304 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. (*Ref. 28-588, 28-588.01 RS Neb.*)

§6-305 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. (*Ref. 28-572, 28-573 RS Neb.*)

§6-306 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.*) (*Ord. No. 170, 9/2/75*)

§6-307 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. (*Ref. 28-513 RS Neb.*)

§6-308 MISDEMEANORS; ARSON. Any person who willfully, maliciously or negligently 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.*)

§6-309 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.

§6-310 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.)*

§6-311 MISDEMEANORS; CONCEALED WEAPONS.

(1) (a) 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.

(b) 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.

(2) 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.)*

§6-312 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.)*

§6-313 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.)*

§6-314 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.)*

§6-315 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.)*

§6-316 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.*)

§6-317 MISDEMEANORS; INDECENT BEHAVIOR. It shall be unlawful for any person or persons over the age of fourteen (14) years to commit any indecent or immoral act, or to appear in any public place in improper clothing, or not decently garbed. It shall be unlawful for any person, or persons, to sell or convey any indecent and obscene books, pictures, or films, or to take part in any indecent, lascivious, or obscene show, play, theatrical exhibition, or other form of entertainment that is shocking to the public morals. Any person or persons who commit a rude, indecent, or immoral act shall be deemed to be guilty of a misdemeanor. (*Ref. 28-920, 28-921, 28-926.09, 28-926.10 RS Neb.*)

§6-318 MISDEMEANORS; WINDOW PEEPING. It shall be unlawful for any person to go upon the private premise of another to look or peep into any window, door, or other opening in a building occupied by any other person.

§6-319 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. 369, 3/7/95*)

§6-320 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.

§6-321 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.*)

§6-322 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.

§6-323 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.

§6-324 MISDEMEANORS; WEEDS, LITTER, STAGNANT WATER. (A) Lots or pieces of ground within the City 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 City 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.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the City 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 City 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. Notice shall be given by mailing a copy of the notice by certified mail to the owner or owner's duly authorized agent and by first class mail to the occupant, if any. 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 City to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the City 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 City 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 City or fails to comply with the order to abate and remove the nuisance, the City 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 City may either:

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes 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. 201, 11/6/79; 304, 10/4/88; 343, 4/7/92; 665, 11/2/04; 855, 2/4/14*)

§6-325 MISDEMEANORS; DISEASED OR DYING TREES. All trees that are in a diseased, dying, or dead condition or that may serve as a breeding place for the European Elm Bark Beetle, *Scolytus Multistriatus*, or other disease carrying insects are hereby declared to be a public nuisance and shall be removed from the private property on which they are located upon notice by the Municipal Police. For the purpose of carrying out the provisions of this section, the Municipal Police shall have the authority to enter on private property to inspect the trees thereon. In the event that the trees are diseased or dead, notice shall be given to the owner of the property by mail or personal service and such notice shall allow the said owner ten (10) days to remove and burn the said tree or trees. In the event that the owner is a non-resident, notice shall be made by publication in a newspaper of general circulation, or by mail if the name and address is known. The person charged with the removal and burning may enter into an agreement with the Municipality that such work be accomplished by the Municipality and the expense and interest shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects, or refuses to enter into such an agreement, or to remove the trees, the Municipal Police may enter upon the property and proceed to direct the removal and burning of the trees and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the Municipality after being properly billed, the costs shall be assessed against the property and certified by the Municipal Clerk to the County Treasurer to be collected in the manner prescribed by law. In the event the property owner is a non-resident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at

the time such required notice was first published. Failure to remove and burn the said trees shall be deemed to be a misdemeanor. (*Ref. 18-1720 RS Neb.*) (*Amended by Ord. No. 196, 11/6/79*)

§6-326 MISDEMEANORS; ABANDONED AUTOMOBILES. (1) (a) No person shall cause any vehicle to be an abandoned vehicle as described in subsections (2)(a), (b), (c), or (d) of this section. (*Ref. 60-1907 RS Neb.*)

(b) No person other than one authorized by the Municipality or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. (*Ref. 60-1908 RS Neb.*)

(2) (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 law enforcement agency after the agency has sent a letter to the last-registered owner under subsection (5) 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 (7) 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 subsection (5) of this section; or

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

No motor vehicle subject to forfeiture under section 28-431 RS Neb. shall be an abandoned vehicle under this subsection. (*Ref. 60-1901 RS Neb.*)

(3) 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 two hundred fifty (\$250.00) dollars or less, title shall immediately vest in the Municipality. (*Ref. 60-1902 RS Neb.*)

(4) (a) Except for vehicles governed by subsection (3) of this section, the Municipality shall make an inquiry concerning the last-registered owner of an abandoned vehicle as follows:

1. Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

2. Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(b) The Municipality 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:

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

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

(c) If the Municipality is notified that a lien or mortgage exists, the notice described in subsection (4)(b) of this section 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.

(d) Title to an abandoned vehicle, if unclaimed, shall vest in the Municipality:

1. Five (5) days after the date the notice is mailed if the vehicle will be sold or offered at public auction under subsection (4)(b)1. of this section;

2. Thirty (30) days after the date the notice is mailed if the Municipality will retain the vehicle; or

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

(e) After title to the abandoned vehicle vests pursuant to subsection (4)(d) of this section, the Municipality may retain for use, sell, or auction the abandoned vehicle. If the Municipality has determined that the vehicle should be retained for use, the Municipality 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 Municipality intends to retain the abandoned vehicle for its use and that title will vest in the Municipality thirty (30) days after publication. (*Ref. 60-1903 RS Neb.*)

(5) (a) If the municipal 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 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.

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

(c) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this subsection 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. 60-1903.01 RS Neb.*)

(6) Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the Municipality, shall be held by the Municipality 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-year period, the proceeds shall be paid into the general fund of the Municipality. (*Ref. 60-1905 RS Neb.*)

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

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

(9) For purposes of this section, PUBLIC PROPERTY means any public right-of-way, street, highway, alley or park or other state, county, or municipally owned property; PRIVATE PROPERTY means any privately owned property which is not included within the definition of public property. (*Ref. 60-1901 RS Neb.*)

(10) Any person who violates the provisions of this section is guilty of an offense. (*Ref. 60-1901 through 60-1911 RS Neb.*) (*Amended by Ord. Nos. 200, 11/6/79; 496, 7/5/00*)

§6-327 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 eleven (11:00) o'clock P.M. of any day and six (6:00) o'clock A.M. of the following day 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 minors under eighteen (18) years terminates after, or less than one (1) hour prior to eleven (11:00) o'clock P.M., the curfew shall commence one (1) hour after the termination of such activity. (*Amended by Ord. No. 281, 7/2/85*)

§6-328 MISDEMEANORS; LOITERING. It shall be unlawful for any person to loiter on the streets, in the park, on the sidewalk, or on any other public ways and property at unreasonable hours, and those persons who are unable to give a good and satisfactory reason why they should be there shall be deemed to be guilty of loitering. (*Ref. 17-556 RS Neb.*)

§6-329 MISDEMEANORS; SHOPLIFTING. (1) A person commits the crime of theft by shoplifting when he or she, with the intent of appropriating merchandise to his or her own use without paying for the same or to deprive the owner of possession of such property or its retail value, in whole or in part, does any of the following:

(a) Conceals or takes possession of the goods or merchandise of any store or retail establishment;

- (b) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;
- (c) Transfers the goods or merchandise of any store or retail establishment from one container to another;
- (d) Interchanges the label or price tag from one item of merchandise with a label or price tag from another item of merchandise; or
- (e) Causes the cash register or other sales recording device to reflect less than the retail price of the merchandise.

(2) In any prosecution for theft by shoplifting, in order to allow the owner of owners of shoplifted property the use of such property pending criminal prosecutions, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Such photograph shall be accompanied by a written statement containing the following:

- (a) A description of the property;
- (b) The name of the owner or owners of the property;
- (c) The time, date, and location where the shoplifting occurred;
- (d) The time and date the photograph was taken;
- (e) The name of the photographer; and
- (f) Verification by the arresting officer.

(3) Prior to allowing the use of shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading. *(Ref. 28-511.01 RS Neb.) (Amended by Ord. No. 238, 4/5/83)*

§6-330 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.*) (*Amended by Ord. Nos. 234, 4/5/83; 461, 8/4/98*)

§6-331 MISDEMEANORS; VIOLENCE ON A SERVICE DOG; INTERFERENCE WITH A SERVICE DOG. (1) A person commits the offense of violence on a service dog when he or she (a) intentionally injures, harasses, or threatens to injure or harass or (b) attempts to intentionally injure, harass, or threaten a dog that he or she knows or has reason to believe is a dog guide for a blind or visually impaired person, a hearing aid dog for a deaf or hearing-impaired person, or a service dog for a physically limited person.

(2) A person commits the offense of interference with a service dog when he or she (a) intentionally impedes, interferes, or threatens to impede or interfere or (b) attempts to intentionally impede, interfere, or threaten to impede or interfere with a dog that he or she knows or has reason to believe is a dog guide for a blind or visually impaired person, a hearing aid dog for a deaf or hearing-impaired person, or a service dog for a physically limited person.

(3) Evidence that the defendant initiated or continued conduct toward a dog as described in subsection (1) or (2) of this section after being requested to avoid or discontinue such conduct by the blind, visually impaired, deaf, hearing-impaired, or physically limited person being served or assisted by the dog shall create a rebuttable presumption that the conduct of the defendant was initiated or continued intentionally.

(4) For purposes of this section:

(a) Blind person means a person with totally impaired vision or with vision, with or without correction, which is so severely impaired that the primary means of receiving information is through other sensory input, including but not limited to braille, mechanical reproduction, synthesized speech, or readers;

(b) Deaf person means a person with totally impaired hearing or with hearing, with or without amplification, which is so severely impaired that the primary means of receiving spoken language is through other sensory input, including but not limited to lip reading, sign language, finger spelling, or reading;

(c) Hearing-impaired person means a person who is unable to hear air conduction thresholds at an average of 40 decibels or greater in the person's better ear;

(d) Physically limited person means a person having limited ambulatory abilities, including but not limited to having a permanent impairment or condition that requires the person to use a wheelchair or to walk with difficulty or insecurity to the extent that the person is insecure or exposed to danger; and

(e) Visually impaired person means a person having a visual acuity of 20/200 or less in the person's better eye with correction or having a limitation to the person's field of vision so that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees. (*Ref 28-1009.01 RS Neb.*) (*Ord. No. 460, 8/4/98*)

§6-332 GENERAL OFFENSES; DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER. (1) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGE.

1. 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;

2. Wine of not less than 0.5% alcohol by volume; or

3. 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.

4. 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:

1. That contains any amount of alcoholic beverage; and

2. a. That is open or has a broken seal; or

b. 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.

(2) 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.

(3) Except as provided in section 10-121 of this Code or division (4) of this section, it is unlawful for any person to consume an alcoholic beverage:

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

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

(4) 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:

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

(b) 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.*) (*Ord. No. 500, 7/5/00*) (*Amended by Ord. No. 817, 6/19/12*)

§6-333 MISDEMEANORS; LOUD, UNNECESSARY NOISES.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City.

(1) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of the Code, but such enumeration shall not be deemed to be exclusive, namely:

(a) Horns, Signaling, Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the City, except as a danger warning, the creation by means of any such signaling device of any unreasonably loud or harsh sound and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity, the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

(b) Radios, Stereo Equipment, etc. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, stereo equipment or other machine or device for the producing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntarily listeners thereto. The operation of any such set, instrument, stereo equipment, machine between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. in such a manner as to be plainly audible at a distance of fifty feet (50') from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Code.

(c) Loudspeakers, Amplifiers for Advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, stereo equipment, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of, sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(d) Yelling, Shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence or of any persons in the vicinity.

(e) Animals. The keeping of any animal which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(f) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(g) Defect in Vehicle or Load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(h) Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of seven o'clock (7:00) A.M. and nine o'clock (9:00) P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M., and if he shall further determine that loss or inconvenience would result to any party-in-interest, he may grant permission for such work to be done within the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. upon application being made at the time the permit for the work is awarded or during the progress of work.

(i) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(j) Pile Driver, Hammers, etc. The operation between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(k) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(2) Waiver. The Governing Body may allow exceptions to this section. Any party wishing to be excluded from these provisions must receive permission from a majority of the Governing Body during a public Council Meeting. The Governing Body may attach certain limitations to the request for exclusion. The City Clerk shall send a notification of approval and limitations to the responsible party. The responsible party shall have said notification available for inspection by authorities during the period of noncompliance. (*Ord. No. 568, 7/16/02*)

Article 4. Sex Offender Residency

§6-401 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 residency as provided in the Sexual Predator Residency Restriction Act.

(2) Sex 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 sexual predators cannot reside. (*Ord. 694, 11/1/05; Amended by Ord. No. 714, 7/18/06*)

§6-402 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:

CHILD CARE FACILITY. A facility licensed pursuant to the Child Care Licensing Act;

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

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

SCHOOL. A public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

SEX OFFENDER. An individual who has been convicted of a crime listed in Neb. Rev. Stat. section 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

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. Rev. Stat. section 29-4013, and who has victimized a person eighteen (18) years of age or younger. (*Ord. 694, 11/1/05; Amended by Ord. No. 714, 7/18/06*)

§6-403 SEXUAL PREDATOR RESIDENCY RESTRICTIONS; PENALTIES; AND EXCEPTIONS. (1) Prohibited location of residence. It is unlawful for any sexual predator to reside within five hundred (500) feet from a school or child care facility.

(2) Measure 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 residence to the nearest outer boundary line of the school or child care facility.

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

(4) Exceptions. This article 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.

[Statutory Reference: The Sexual Predator Residency Restriction Act, Laws 2006, LB 1199, §§27 to 29; RS Neb. Sec. 29-4003 and Sec. 29-4013] (Ord. 694, 11/1/05; Amended by Ord. No. 714, 7/18/06)

§6-404 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEX OFFENDERS; PENALTIES. (Ord. 694, 11/1/05; Repealed by Ord. No. 714, 7/18/06)

Article 5. Penal Provisions

§6-501 VIOLATIONS; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00) A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

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

(b) 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. (*Ref. 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 495, 7/5/00*)

§6-502 ABATEMENT OF NUISANCE. (*Repealed by Ord. No. 495, 7/5/00*)