

Chapter 6

POLICE REGULATIONS

Article 1. Dogs

§6-101 DOGS; LICENSE:

Any person who shall own, keep, or harbor a dog over the age of six (6) months within the Municipality shall within thirty (30) days after acquisition of the said dog acquire a license for each such dog annually by or before January 1 of each year. The said license shall be delinquent from and after January 31; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent in January 1 of any year, shall be liable for the payment of the dog license fee levied herein and such fee shall be delinquent if not paid within ten (10) days thereafter. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of ten dollars (\$10.00) for each spayed/neutered dog and twenty dollars (\$20.00) for each intact (unneutered/unsprayed) dog, plus a fee of one dollar and twenty-five cents (\$1.25) required under section 54-603(3) RS Neb. Residents fifty-five (55) and older shall qualify for a five dollar (\$5.00) discount on licensing fees. For new residents moving into the Municipality from July-December, they will be charged at half price, also stating to the Municipal Clerk his/her previous address. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his/her name and current street address, email address (if any) and the name, breed, color, and sex of each dog owned and kept by the owner. A certificate that the dog has been vaccinated by a veterinarian with a licensed rabies vaccine, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. A person issued a license based on a certificate that expires during the ensuing license period shall present to the Municipal Clerk a new certificate of rabies vaccination within 30 days of expiration of the prior certificate. Failure to present a new certificate shall be a violation of this ordinance and may render the license subject to revocation. To qualify for the lower licensing fee of ten dollars (\$10.00), the owner must show proof that the dog has been spayed/neutered by a licensed veterinarian. *(Ref 54-603, 71-4412 RS Neb) (Amended by Ords 859, 2/26/08; 886, 2/28/11; 917, 5/12/14; 943 8/28/2017)*

§ 6-101.01 DOG GUIDES, HEARING AID DOGS, AND SERVICE DOGS: EXEMPT FROM LICENSE TAX:

Every dog guide for a blind or visually impaired person, hearing aid dog for a deaf or hearing-impaired person, and service dog for a physically limited person shall be licensed as required by the Municipal Code, but no license tax shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner of the dog shall be liable for the payment of the required license tax. *(Ref 54-603 RS Neb) (Ord 732, 10/26/98)*

§ 6-101.02 DOG LICENSING: RESCUE GROUPS AND FOSTER HOMES:

Dogs in the care of rescue groups and/or foster homes will be licensed with the City of Pawnee City thirty (30) days after acquisition. The \$1.25 fee required under Section 54-603(3), Nebr. Rev. Stat. for each dog will be collected at the time of licensing. A certificate that the dog has been vaccinated by a veterinarian with a licensed rabies vaccine, shall be presented when the license is applied for, and no license or tag shall be issued until the certificate is shown.

A person who purchases a license based on a certificate that expires during the ensuing license period shall present to the Municipal Clerk a new certificate of rabies vaccination within thirty (30) days of expiration of the prior certificate. Failure to present a new certificate shall be a violation of this ordinance and may render the license subject to revocation.

The Pawnee City dog licensing fees will be waived for ninety (90) days after acquisition of a dog by a licensed rescue group or foster home. On day ninety-one (91), payment of a licensing fee of ten dollars (\$10.00) for each spayed/neutered dog and twenty dollars (\$20.00) for each intact (unneutered/unspayed) dog will be required to keep the license current. To qualify for the lower licensing fee of ten dollars (\$10.00), the applicant must show proof that the dog has been spayed/neutered by a licensed veterinarian. (*Ord 946, 1/8/2018*)

§6-102 DOGS; LICENSE TAGS:

Upon the payment of the license fee, the Municipal Clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the thirty-first (31st) day of December following such licensing. The owner shall be required to ensure that the tag is worn by the dog whenever such dog is off the owner's property. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provision herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid. The owner shall pay a fee of three dollars (\$3.00) for the replacement tag. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year. (*Ref 17-526, 54-603 RS Neb*) (*Amended by Ord 859, 2/26/08*)

§6-103 DOGS; OWNER DEFINED:

Any person who shall harbor or permit any dog to be for ten (10) days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed. (*Ref 54-606, 71-4401 RS Neb*)

§6-104 DOGS; NUISANCE:

(1) It shall be unlawful for any person keeping or harboring a dog to fail to exercise proper care and control of such dog or allow it to become a public nuisance. A public nuisance is defined as any animal that:

- (a) Attacks passerby or passing vehicles;
- (b) Attacks other animals while at large;
- (c) Is repeatedly at large;
- (d) Damages property;
- (e) Barks, whines or howls in a continuous or frequent manner disturbing the comfort or repose of the residents of any residential neighborhood;
- (f) Is found running at large without a collar or harness.

(2) Repeated violations of dog ordinances will be assessed escalating penalties. An initial violation will result in the minimum penalty listed in the Schedule of Fees. Second violations will result in double the minimum penalty. Third and subsequent violations will result in triple the minimum penalty.

(3) Residents who have repeatedly violated dog ordinances in their previous city of residence may be required to remove their dogs from this Municipality upon the violation of any dog-related ordinance. Any owner may be required to remove a dog from the City after five (5) ordinance violations by the same dog.

(4) Cases of dogs with multiple violations will be reviewed by the Animal Control Board. If it is found to be in the best interest of public safety and well-being that these dogs be removed from the City, the owners of said dogs will be sent a notice by the City Clerk via certified mail.

(5) If said dogs are not voluntarily removed from the City by the owner within ten (10) days, they will be impounded or, if the dogs are deemed by the Animal Control Authority to be a risk to public safety, such dogs will be destroyed. (*Ord 538, 3/28/88*) (*Amended by Ord 859, 2/26/08*)

§6-105 DOGS; CAPTURE IMPOSSIBLE:

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

§6-106 DOGS; DAMAGE TO PROPERTY:

It shall be unlawful for any person to own, keep, or harbor any dog which causes damage to property, other than that of the owner of said dog. No dog shall be allowed to tip over garbage containers or scatter garbage on any property other than the owner's. (*Amending Ord 859, 2/26/08*)

§6-107 DOGS; BARKING AND OFFENSIVE:

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are upon any public sidewalks, streets, or alleys in the Municipality. Upon the written complaint of one (1) or more affected persons from different households, filed with the Municipal Clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, the Animal Control Authority shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such dog. *(Ref 17-526 RS Neb) (Amended by Ord 859, 2/26/08)*

§6-108 DOGS; FEMALE IN SEASON:

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the Municipality while in season. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and as such the owner shall be required to confine such dog.

§6-109 DOGS; LIABILITY OF OWNER:

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. *(Ref 54-501, 54-602 RS Neb) (Amended by Ord 859, 2/26/08)*

§6-110 DOGS; RABIES SUSPECTED:

(1) Any dog suspected of being afflicted with rabies, or any dog not vaccinated in accordance with the provisions of this Article which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten (10) days. If upon examination by a veterinarian, the dog no clinical signs of rabies at the end of such impoundment, such dog may be vaccinated at the owner's cost and released to the owner upon payment of the license fee. If no one claims such dog or if the owner declines to have the dog vaccinated at his cost or declines to license the dog, such dog shall be offered for adoption or humanely disposed of in accordance with the provisions herein.

(2) If the owner of said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten (10) days, at which time the dog shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog may be released from confinement. *(Ref 71-4406 RS Neb) (Amended by Ord 859, 2/26/08)*

§6-111 DOGS; LEASH REQUIREMENT:

Any dog running at large will be impounded. A dog is running at large when he leaves the owner's premises or goes upon the public road, and no one having control of the dog is near. If the dog is licensed, the owner will be called by the City Clerk. The owner will be required to pay any applicable impoundment and/or boarding fees before the dog is released. The owner of an unlicensed dog will, in addition, be required to have the dog vaccinated for rabies and obtain a City dog license within five (5) days of its return to the owner. If no one claims the animal in a five (5)-day period following impoundment, the City will make the dog available for adoption or have the dog humanely euthanized. (*Ord 538, 3/28/88*) (*Amended by Ords 757, 11/27/00; 836, 12/11/06; 859, 2/26/08; 1031, 7/25/2022*)

§6-112 DOGS; KENNEL LICENSE TAX:

The owner or harbinger of six (6) or more dogs shall pay a kennel tax of one hundred fifty dollars (\$150.00) to the City Clerk with certificates of rabies vaccination for each dog in the kennel effective for one (1) year of the license, and the City Clerk shall issue him a license to keep any number of dogs not exceeding ten (10); in such event, individual tags shall not be required. An additional kennel license shall be required where the number of dogs exceeds ten (10). The recipient of a kennel license must keep such dogs in secure pens/enclosures or on a leash at all times. Said kennel owner is subject to inspection at any time by the Animal Control Authority to ensure that pens are secure, that dogs are not creating a noise nuisance, and that the dogs are confined in a humane and healthy manner. The kennel license shall expire on the first (1st) day of the next January following the date of issuance thereof. (*Ord 538, 3/28/88*) (*Amended by Ord 859, 2/26/08*)

§6-113 CATS; RABIES SHOT REQUIRED:

It shall be unlawful to own, keep or harbor any cat over the age of six (6) months within the City unless such cat has been inoculated against rabies within the preceding two (2) years. (*Ord 538, 3/28/88*)

§6-114 DANGEROUS DOGS:

(1) *Definitions.* Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section

Animal Control Authority shall mean an entity authorized to enforce the animal control laws of the Municipality.

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

Dangerous Dog or Other Dangerous Animal shall mean any dog, or animal, that, according to the records of the appropriate authority has:

(a) Inflicted severe injury on a human being without provocation on public or private property;

(b) Killed a domestic animal without provocation while the dog was off [of] the owner's property; or

(c) Been previously found to be potentially dangerous, the owner has received notice of such finding and the dog or other animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Owner shall mean any person possessing, harboring, keeping, having an interest in or having control or custody of an animal.

Potentially Dangerous Dog shall mean any dog that, when unprovoked, inflicts bites on a human or a domestic animal either on public or private property, or chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or any specific dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of humans or domestic animals.

Proper Enclosure of a Dangerous Dog shall mean that, while on owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, shall be securely embedded into the ground or have a floor attached to the sides, and shall also provide protection from the elements for the dog.

Severe Injury shall mean any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

(2) *Determination That Dog is Dangerous Dog.*

(a) If it is determined by the Animal Control Authority, after investigation, that a dog is a dangerous dog, said authority or his agent, shall notify in writing the owner of the dog that it has been declared a potentially dangerous dog. If the owner of the dog disagrees with the determination, the owner may appeal in writing to the City Clerk within ten (10) days of receiving the notice. Upon receiving the appeal, the Animal Control Board shall hold a hearing within thirty (30) days to examine the evidence concerning the determination previously made. The hearing shall be conducted by the Council representative to the Animal Control Board, or his designated agent, and will be informal in nature. The rules of evidence shall not apply, but the Board shall consider only credible and relevant evidence. The owner and Animal Control Authority shall have the opportunity to present evidence and be heard on this matter. The determination that a dog is a potentially dangerous dog shall be made by the concurrence of a majority of all members appointed to the Board. The owner shall have the right to appeal the decision by the Board in a court of law.

(b) During the procedure described in this subsection, a dog declared as dangerous may be impounded at the owner's expense or, if the Animal Control Authority is assured by the owner's signed agreement of proper confinement and safeguards, and that the dog is currently licensed in the City, the dog may be released to its owner pending a final determination.

(3) *Dangerous Dog Ownership Limit.* No person shall own, keep, or harbor more than one (1) dangerous dog per residence.

(4) *Licensing of Dangerous Dog.* The owner of a dog which has been declared as a dangerous dog shall immediately apply for a dangerous dog license from the City Clerk at the cost of fifty dollars (\$50.00) for a spayed/neutered dog or one-hundred dollars (\$100.00) for an intact (unsprayed/unneutered) dog. To obtain a license an owner must be over the age of twenty-one (21) years. Additionally, the owner of any dog determined to be dangerous shall provide to the City Clerk the following information:

- (a) A detailed description of the animal, including name, breed, sex, coloring, and any other identifying marks;
- (b) A photograph of the dog; and
- (c) Sufficient evidence of proper enclosure to confine a dangerous dog.

(5) *Liability Insurance for Dangerous Dogs.* The owner of a dog determined to be dangerous shall obtain liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) to cover any injury or damage that might be caused by the dog. The owner shall present evidence of such coverage to the City Clerk.

(6) *Sale and/or Ownership Transfer of Dangerous Dog or Change of Owner Residence.* Any person who has licensed a dog pursuant to this subsection shall have a continuing obligation to provide updated licensing information to the City Clerk within thirty (30) days of the owner changing residence or the sale, transfer, or death of such dog. If the dog is sold or transferred within the City, the information provided to the City Clerk must include the name of the new owner of the dog and the address where the dog will be harbored.

(7) *Annual Licensing Fees.* The owner of any dangerous dog shall keep the license current by paying the annual dangerous dog licensing fee.

(8) *Restraint of Dangerous Dogs.* It is unlawful for an owner of a potentially dangerous dog to permit the dog to be outside the proper enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a person over the age of twenty-one (21) years.

(9) *Exceptions.* Dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has in the past been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(10) *Impoundment of Dangerous Dogs.* Any dangerous dog which is:

- (a) Not validly licensed under this section;
- (b) Not maintained in the proper enclosure;
- (c) Outside of the dwelling of the owner or outside of the proper enclosure and not under physical restraint of the responsible person;
- (d) Not covered by liability insurance coverage or a surety bond as required by this section; or

(e) Found to have again bitten, attacked, or threatened the safety of any human or domestic animal shall be immediately confiscated by an Animal Control Officer and placed in quarantine, at the owner's cost, until ordered by the court to either return the dog to the owner or humanely kill it. The option of releasing the animal to the owner in lieu of impoundment, as provided in subsection (2)(b), shall not be available when the dog or animal is being confiscated and impounded pursuant to this section. (*Ref 54-617-54-624 RS Neb*)(*Ord 561, 11/27/89*) (*Amended by Ord 859, 2/26/08*)

§6-115 DOGS; TEASING OR PROVOKING:

It shall be unlawful to tease a dog in an enclosure, to open the gate or other entrance to an enclosure to allow a dog to escape, or to otherwise entice a dog to roam. It is unlawful to provoke, abuse, assault, or in any way disturb a dog or other animal with the intent to cause it to bark or attack a person. (Ord 859, 2/26/08)

§6-116 SCHEDULE OF FINES.

Licensing

Intact dog	\$20.00 (\$15 Sr citizens)
Spayed/neutered dog	\$10.00(\$5 Sr citizens)
Dangerous dog, spayed/neutered	\$50.00 (no discount)
Dangerous dog, intact	\$100.00(no discount)

Penalties

Failure to remove feces (not on owner's property)	\$25.00
Person giving false information on license application	\$25.00
Dog running at large	\$50.00
Dog chasing stock, animals, or vehicles	\$50.00
Unlicensed dog	\$50.00
Dog chasing or threatening a person	\$100.00
Dog causing damage to property or domestic animal.....	\$100.00
Dog injuring a person	\$100.00
Person teasing an animal in an enclosure	\$100.00
Person enticing a dog to run at large	\$100.00
Provoking a dog to bite or attack a person	\$150.00
Dog biting or attacking a person	\$150.00
Dog causing death to a domestic animal	\$150.00
Failure to remove dog from City upon multiple violations ...	\$150.00

Fees for Dogs that Have Been Declared Dangerous or Potentially Dangerous

Unlicensed dangerous dog	\$150.00
Failure to keep dangerous dog confined	\$150.00

(Ord 859, 2/26/08)

§6-117 ANIMAL CONTROL BOARD:

(1) There is hereby established an Animal Control Board. The Board shall consist of the following members:

- (a) A member of the City Council;
 - (b) An Animal Control Authority officer;
 - (c) Three (3) citizen members to be appointed by the Pawnee City Council for a term of three (3) years;
- (2) The City Council member shall serve as chairman of the Animal Control Board.
- (3) The Board of Animal Control shall meet as directed by the chairman to conduct any hearing provided for under this Chapter, but not less than twice a year. (*Ord 859, 2/26/08*)

§6-118 REVIEW BY GOVERNING BODY:

The Governing Body of the City shall have the right to review the conduct, acts, and decisions of the City Animal Control Board. Any person may appeal any ruling or order of the Animal Control Board to the Governing Body, who may hear the matter and make the final decision. (*Ord 859, 2/26/08*)

§6-119 DOGS; PAYMENT OF CITATIONS:

A copy of each citation issued for violation of the City's dog ordinance shall be deposited with the Bureau of Violations within the office of the Municipal Clerk, whose duty it shall be to collect all fines and to maintain appropriate and accurate records of all such fines paid to him/her. Fines shall be payable at the office of the Clerk. Such tickets shall be in the amounts described in section 6-116 of this Code and an additional five dollars (\$5.00) for administrative fee for each violation if paid within seven (7) days from the date of issuance. Should any such fine not be paid within the seven (7)-day period, the Clerk shall instruct the City Attorney to file a complaint in the appropriate court. The fine for any violation after seven (7) days or after judgment is entered will increase in amount to accommodate court costs. All money collected by the City Clerk under this section shall be transferred to the Clerk of the County Court at the end of each month. (*Ord 864, 8/25/08*)

§6-120 RECKLESS OWNER:

(1) The Animal Control Board shall initiate administrative proceedings to declare an owner a reckless owner when the individual has been convicted of one (1) or more violations of this Article on three (3) separate occasions in a twenty-four (24)-month period, or whose animal has been determined to be dangerous or potentially dangerous and who has not complied with the requirements of this Chapter pertaining to dangerous or potentially dangerous animals, a reckless owner. Following being declared a reckless owner, the Animal Control Authority shall revoke all pet licenses issued to such person and require the surrendering of all unlicensed pets.

(2) Such proceedings shall be instituted by service of a notice, in writing, upon such owner either by certified and regular mail to the owner's last known address or personally. The notice shall contain:

- (a) The name and address of the owner who is subject to such declaration and revocation;
- (b) The names, descriptions and license numbers of any pet animals licensed to the owner;
- (c) A description of the violations or requirements which form the basis of such declaration and revocation, including the case numbers, if any;
- (d) A summary of the effects of such declaration, including revocation of all pet licenses and surrender of all pet animals;
- (e) The date of proposed entry of the declaration and revocation order which shall be not less than ten (10) days after the date of mailing or personal service of the notice; and
- (f) Notification of the availability of an appeal, if the owner objects to such declaration and revocation, within ten (10) days of the date of mailing or personal service of the notice.

(3) Upon entry of such declaration and revocation order, unless an appeal of such order is filed with the Animal Control Authority in accordance with this section, such reckless owner shall be required to surrender all pet animals to the animal control authority within twenty-four (24) hours. Failure to surrender such pet animals shall result in immediate impoundment by the Animal Control Authority. Such surrendered or impounded pet animals shall immediately become the property of the Animal Control Authority and may be disposed of by the Animal Control Authority as the Animal Control Authority deems appropriate.

(4) An owner who is declared a reckless owner shall be prohibited from licensing, residing with, or owning any animal in the City for a period of forty-eight (48) months from the date of entry of the declaration and revocation order.

(5) An appeal of such declaration and revocation order shall be heard by the Animal Control Authority and shall provide an opportunity for the owner to appear and offer evidence to dispute the declaration and revocation order within ten (10) business days. The filing fee for each appeal shall be one hundred dollars (\$100.00). A determination to affirm or reverse such order shall be entered by the hearing officer within ten (10) days of the date of the hearing. (*Ord 875, 11/23/09*)

§6-121 TRAPPING WITHIN CITY LIMITS:

No person shall set up or cause to be set up within the city limits of Pawnee City any snare traps, steel jaw traps, spring traps with “teeth” or perforated edges on the holding mechanism, or any type of trap with a holding mechanism designed in such fashion as to reasonably insure the injuring or traumatizing of the entrapped prey, for the purpose of ensnaring domestic or wild animals. This section does not prohibit the use of such traps if specifically deemed necessary by the Board of Health or Animal Control Authority officer in and for the control of communicable disease. This section does not prohibit the use of cage traps for the purpose of humanely capturing domestic or wild animals for veterinary treatment or removal to a more appropriate location, provided the trapping and releasing is performed with written permission from and under the supervision of the Animal Control Authority or performed by a law enforcement officer or City employee in the performance of his or her duties. This section is not to be construed to include those traps designed to kill common rodents, i.e., rats, mice, gophers and groundhogs, provided the property owner is

responsible for ensuring that any of the above said “rodent” traps are not placed or used on or about his/her property in such manner as to trap or injure any persons, domesticated animals, or other wild animals. (*Ord 925, 7/27/2015*)

6-122: ANIMAL RESCUE ORGANIZATION: PERMIT:

It shall be unlawful for any person or group to maintain or operate an animal rescue organization within the City of Pawnee City without first having obtained a permit therefor from the City of Pawnee City. An application shall include the organization’s proof of licensing as a rescue group or individual foster home by the Nebraska Department of Agriculture and the permit fee. Upon a finding by the Pawnee City Animal Control Board that the organization is in compliance with the ordinance, said permit shall be issued. The terms of the permit are as follows:

- (a) Permits are not transferable.
- (b) A permit holder shall provide to the Animal Control Board a report by the 10th of each month of any change in location or status of each animal in its care.
- (c) The animal rescue organization permit shall expire December 31st of each calendar year for which it is issued. All permit renewals shall be due January 1st of each year.
- (d) The permit fee shall be five dollars (\$5.00) per year for the animal rescue organization, to include all foster homes under said animal rescue group.
- (e) Each individual foster home that is not under the jurisdiction of an animal rescue group shall pay a five dollar (\$5.00) annual fee.
- (f) Issuance of a permit allows the Animal Control Officer for the City of Pawnee City to inspect the foster home to investigate a complaint.
- (g) To qualify for a City permit, a rescue group or individual foster home must be licensed by the Nebraska Department of Agriculture.
- (h) Foster homes are limited to a total of five dogs, said total to include the animals in foster care and those personally owned at the residence. If the foster home exceeds a total of five dogs, a Pawnee City kennel license must be obtained, and the standard fee for such license will apply. Ref §6-112.
- (i) All personally owned animals at an animal foster home must be current on licensing and rabies vaccination. Ref §6-101 and §6-101.02. (*Ord 947, 1/8/2018*)

§6-201 ANIMALS; RUNNING AT LARGE:

It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. (*Ref 17-506 RS Neb*)

§6-202 ANIMALS; ENCLOSURES:

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

§6-203 FOWLS; RUNNING AT LARGE:

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (*Ref 17-547 RS Neb*)

§6-204 ANIMALS; ANIMALS; ABANDONMENT, NEGLECT, AND MISTREATMENT:

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

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

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

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

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

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

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

LAW ENFORCEMENT OFFICER. Any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the city or any other 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. LAW ENFORCEMENT OFFICER also includes a special investigator appointed as a deputy state sheriff as authorized pursuant to Neb. RS 81-201 while acting within the authority of the Director of Agriculture.

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

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

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

(B) *Enforcement powers; immunity.*

- (1) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.
- (2) It shall be the duty of a law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated to make prompt investigation of such violation. A law enforcement officer may, in lieu of making an arrest, issue a citation to the owner or custodian as prescribed in Neb. RS 29-422 to 29-429.
- (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. (Neb. RS 28-1012)

(C) *Violation.*

- (1) A person who intentionally, knowingly, or recklessly abandons, cruelly neglects, or cruelly mistreats an animal is guilty of an offense.
- (2) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. (*Neb RS 28-1009*) (*Amended by Ords 905, 1-28-2013; 929, 3-14-2016, 939, 3-13-2017 and 1047, 4/08/2024*)

§6-205 CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY:

A. 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.

B. 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 by law.

C. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (*Ref 28-1012 RS Neb*) (*Ord 573, 1/28/91*)

§6-206 ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; PENALTY:

A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal. (*Ref 28-1009 RS Neb*) (*Ord 573, 1/28/91*)

§6-207 ANIMALS; PITTING; DEFINITIONS:

Bearbaiting shall mean the pitting of any animal against a bear. Cockfighting shall mean the pitting of a fowl against another fowl. Dogfighting shall mean the pitting of a dog against another dog. Pitting shall mean bringing animals together in combat. (*Ref 28-1004 RS Neb*) (*Ord 574, 1/28/91*)

§6-208 ANIMALS; PITTING; PROHIBITED:

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another. Nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose. Nor shall any person knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting. Nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her. (*Ref 28-1005 RS Neb*) (*Ord 574, 1/28/91*)

§6-209 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 section 6-208. (*Ref 28-1005 RS Neb*) (*Ord 574, 1/28/91*)

§6-210 ANIMALS; REMOVAL OF EXCREMENT:

(1) No person owning or keeping any animal shall fail to prevent such animal from defecating on any property other than the premises of the owner or keeper. It is a specific defense to the charge of violating this section that the defecation occurred on private property with the express permission of the owner or all tenants thereof. It is further a specific defense to a charge of violating this section that the owner or keeper immediately removed or cleaned up such deposit and disposed of it thereof by depositing it in a toilet or receptacle ordinarily used for garbage and covered by a lid or in an otherwise lawful and sanitary manner. Every person convicted of a violation of this section shall pay at least a minimum fine according to the following schedule:

- (a) First conviction: \$10;
 - (b) Second conviction: \$25;
 - (c) Third and subsequent conviction: \$50.
- (2) The record of the violator for two (2) years prior to the date of the current violation will be considered. (*Ord 823, 4/24/06*)

Article 3. Miscellaneous Misdemeanors

§6-301 MISDEMEANORS; REFUSING TO ASSIST OFFICER:

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

§6-302 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*)

§6-303 MISDEMEANORS; CRIMINAL 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*)

(A) A person commits first degree criminal trespass if:

(1) He or she enters or secretly remains in any building or occupied structure, or any separately secured or occupied portion thereof, knowing that he or she is not licensed or privileged to do so; or

(2) He or she enters or remains in or on a public power infrastructure facility knowing that he or she does not have the consent of a person who has the right to give consent to be in or on the facility.

(B) First degree criminal trespass is a Class I misdemeanor.

(C) For purposes of this section, PUBLIC POWER INFRASTRUCTURE FACILITY means a power plant, an electrical station or substation, or any other facility which is used by a public power supplier as defined in Neb. RS 70-2103 to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed. (Neb. RS 28-520)

(D) (1) A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, to enter or remain in any place as to which notice against trespass is given by:

(a) Actual communication to the actor; or

(b) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

(c) Fencing or other enclosure manifestly designed to exclude intruders, except as otherwise provided in division (A) of this section.

(2) A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, he or she intentionally causes an electronic device, such as an unmanned aircraft, to enter into, upon, or above the property of another, including such property owned by such person and leased or rented to another, with the intent to observe another person without his or her consent in a place of solitude or seclusion.

(3) For purposes of this section, unmanned aircraft means an aircraft, including an aircraft commonly known as a drone, which is operated without the possibility of direct human intervention from within or on the aircraft.

(4) Second degree criminal trespass is a Class III misdemeanor, except as provided for in division (D)(3)(5) of this section.

(5) Second degree criminal trespass is a Class II misdemeanor if the offender defies an order to leave personally communicated to him or her by the owner of the premises or other authorized person. (Neb. RS 28-521) Penalty, see § 10.99 *1048, 4/08/2024*)

§6-304 MISDEMEANORS; CRIMINAL MISCHIEF:

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

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

(B) Criminal mischief is an offense:

- (1) If the actor intentionally or maliciously causes pecuniary loss of \$500 or more but less than \$1,500; or
- (2) If the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than \$500 or if his or her action results in no pecuniary loss. (*Ref 28-519 RS Neb*) (*Amended by Ord 930, 3/14/2016*)

§6-305 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*) (*Amended by Ord 391, 3/22/76*)

§6-306 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)*

§6-307 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.

§6-308 MISDEMEANORS; FIREHOSE:

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

§6-309 MISDEMEANORS; TRASH:

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

§6-310 MISDEMEANORS; DRUNKENNESS: *(Repealed by Ord 420, 10/9/78)*

§6-311 MISDEMEANORS; DRINKING IN PUBLIC:

It shall be unlawful for any person to consume alcoholic beverages in the public streets, alleys, roads, highways, or upon any property owned by the Municipality or other governmental subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways, in theatres, dance halls, or any other place open to the public; provided, the provisions of this section shall not apply to liquor establishments licensed by the State of Nebraska. *(Ref 53-186 RS Neb) (Amended by Ord 392, 3/22/76)*

§6-312 MISDEMEANORS; MISREPRESENTATION BY MINOR:

It shall be unlawful for any minor to represent that he or she is of the age of twenty-one (21) years for the purpose of asking for, purchasing, or receiving any alcoholic beverages. *(Ref 53-103 RS Neb) (Amended by Ord 786, 8/25/03)*

§6-313 MISDEMEANORS; MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR:

(A) For purposes of this section, the definitions found in section 53-103 RS Neb shall apply, including, but not limited to, the definitions of the terms alcoholic liquor, consume, minor, sale, and to sell.

(B) Except as provided in section 10-413, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor in his or her permanent place of residence or on the premises of a place of religious worship on which premises alcoholic liquor is consumed as a part of a religious rite, ritual, or ceremony.

(C) It shall be unlawful for any person under twenty-one years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. (*Ref 53-180.02 RS Neb*) (*Amended by Ord 787, 8/25/03*)

§6-314 USE OF TOBACCO BY PERSONS UNDER THE AGE OF 21:

Whoever, being a person under the age of 21 years, shall smoke cigarettes or cigars, use electronic nicotine delivery systems of alternative nicotine products, or use tobacco in any form whatever in this city, shall be guilty of an offense. Any person charged with a violation of this section maybe free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, electronic nicotine delivery systems, alternative nicotine products, or tobacco. (*Ref 28-1418 RS Neb*) (*Amended by Ords 922, 3/23/2015 & 977, 12/23/19; 1011, 8/9/2021*)

§6-314.01 MISREPRESENTATION BY PERSONS UNDER THE AGE OF 21 TO OBTAIN TOBACCO:

Any person under the age of 21 years who obtains cigars, tobacco, cigarettes, or cigarette material, electronic nicotine delivery systems, or alternative nicotine products from a licensee hereunder by representing that he or she is of the age of 21 years or over, is guilty of an offense. (*Neb RS 28-1427*) (*Ord 982, 12/23/2019; 1012, 8/9/2021*)

§6-315 SALE OF TOBACCO TO PERSONS UNDER THE AGE OF 21:

(A) Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, electronic nicotine delivery systems, or alternative nicotine products, to any person under 21 years of age is guilty of an offense.

(B) (1) In order to further the public policy of deterring licensees or other persons from violating division (A) if this section, a person who is at least 15 years of age but under 21 years of age may assist a peace officer in determining compliance with such subsection if:

(a) The parent or legal guardian of the person has given written consent for the person to participate in such compliance check if such person is under 21 years of age;

(b) The person is an employee, a volunteer, or an intern with a state or local law enforcement agency;

(c) The person is acting within the scope of his or her assigned duties as part of a law enforcement investigation;

(d) The person does not use or consume a tobacco product as part of such duties; and

(e) The person is not actively assigned to a diversion program, is not a party to a pending criminal proceeding or a proceeding pending under the Nebraska Juvenile Code, and is not on probation.

(2) Any person under the age of 21 years acting in accordance with an under the authority of this subsection shall not be in violation of Neb. RS 28-1427. (Neb. RS 28-1419) Penalty, see § 10.99 (*Amended by Ord 978, 12/23/2019; 1013, 8/9/2021*)

§6-316 MISDEMEANORS; POSTED ADVERTISEMENTS:

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

§6-317 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*)

§6-318 MISDEMEANORS; CONCEALED WEAPONS:

It shall be unlawful for any person or persons to carry about their person any concealed pistol, revolver, knife, billy club, slingshot, metal knuckles, or other dangerous weapon of any kind. Nothing herein shall be construed to apply to the Municipal Police. (*Ref 28-1001 RS Neb*)

§6-319 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 18-1720 RS Neb*)

§6-320 MISDEMEANORS; FIRECRACKERS:

It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, vesuvian fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths (7/8") inch in length or one-eighth (1/8") inch in diameter, and which do not contain more than one half (1/2) grain each in weight of explosive material. (*Ref 28-1003.07 RS Neb*)

§6-321 MISDEMEANORS; MENACING THREATS:

It is hereby declared unlawful for any person within the corporate limits of this Municipality to assault or threaten another in a menacing manner or strike or injure another.

§6-322 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*)

§6-323 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*)

§6-324 MISDEMEANORS; MALICIOUS MISCHIEF:

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

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

§6-325 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*)

§6-326 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.

§6-327 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.

(4) Any person who deposits, throws, discards or otherwise disposes of any litter in any area maintained by the Municipality as a tree dump or burn area shall be subject to escalating penalties for repeated violations of littering ordinances. An initial violation will result in a minimum penalty of \$250.00 for the first offense and \$500 for a second or subsequent offenses. *(Ref 28-523 RS Neb)*
(Amended by Ord 926, 9/28/2015)

§6-328 MISDEMEANORS; PROHIBITED FENCES:

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

§6-329 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 first remove all doors and make the same reasonably safe. *(Ref 18-1720 RS Neb)*

§6-330 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.

§6-331 MISDEMEANORS; WEEDS, LITTER, STAGNANT WATER:

(1) 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.

(2) 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.

(3) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the City is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(4) 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 or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

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

(6) (a) 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, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the City or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Within five (5) days after receipt of such notice or publication or posting, whichever is applicable, 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. The costs and expenses of any such work shall be paid by the owner.

(b) If unpaid for two (2) months after such work is done, the city may either:

1. Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed; or

2. Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(7) For purposes of this section:

1. 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;

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; and

2. WEEDS includes, but is 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.*) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*). (*Ref 17-563 RS Neb*) (*Amended by Ords 587, 6/8/92; 655, 7/10/95; 820, 12/27/05*)

§6-332 ABANDONED AUTOMOBILES:

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

ABANDONED VEHICLE.

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

(i) 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 6 hours on any public property;

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

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

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

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

(vi) 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**:

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

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

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

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

(vi) If removed from private property by the City pursuant to a City ordinance or this code.

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

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

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

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

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

(B) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers issued pursuant to Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$500 or less, title shall immediately vest in the City. Any certificate of title issued under this division to the City shall be issued at no cost to the City. (*Neb. RS 60-1902*)

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

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

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

(2) The City shall notify the last-registered owner, if any, and any lienholder, if any, within 15 business days that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

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

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

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

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

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

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

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

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

(D) (1) If a City law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners, if any, and lienholders, if any, within 15 calendar days stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

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

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner

or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (*Neb. RS 60-1903.01*)

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

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

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

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

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

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

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

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

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

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

(L) Any person violating the provisions of this section shall be guilty of an offense. (*Ref 60-1901 through 60-1911 RS Neb*) (*Amending Ords 410, 10/24/77; 590, 5/10/93; 755, 8/28/00; 954, 2/25/19; 1028, 7/25/2022*)

§6-333 MISDEMEANORS; KEEPING OF WRECKED OR JUNKED VEHICLES AND MACHINERY, EXCEPTION:

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

(2) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, such person shall be fined in a sum not to exceed five hundred dollars (\$500.00), except that each person so convicted shall be fined in a sum of not less than one hundred dollars (\$100.00) for the first offense, not less than two hundred dollars (\$200.00) for the second offense, and not less than three hundred dollars (\$300.00) for the third offense and each offense thereafter. Each day that a violation of any of the provisions of this section continues shall constitute a distinct offense and shall be punishable as such. (*Amended by Ords 591, 5/10/93; 871, 10/26/09; 965, 4/22/2019; 965, 4/22/2019*)

§6-333.01 HOBBYIST PERMIT:

(1) A hobbyist permit for the restoration or repair of up to two non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes may be granted to the resident of such premises as follows:

- a. Application for the hobbyist permit shall be filed in writing with the City Clerk on a form provided by the City and shall contain the name and address of the applicant and the make, model, year and vehicle identification number of each vehicle to be restored or repaired.
- b. The vehicle(s) to be restored or repaired shall be owned by the applicant.

- c. The permit shall cover the vehicle(s) only and does not authorize the storage of miscellaneous vehicle parts or junk contained in, on or near the vehicle(s).
- d. The fee for such hobbyist permit shall be \$50.00 per vehicle. Limit of two (2) vehicles per premises.

All such permits shall expire on the 180th day following the date of issuance thereof. The hobbyist permit for the vehicle(s) shall be renewable one time only upon payment of the \$50.00 per vehicle. (*Ord 966, 4/22/2019*)

§6-334 MISDEMEANORS; SHOPLIFTING:

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.

In any prosecution for theft by shoplifting, in order to allow the owner or 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.

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 28-514 RS Neb*) (*Ord 469, 9/13/82*)

6-335 MISDEMEANORS; FALSE REPORTING:

It shall be unlawful for any person to:

(1) Furnish material information he or she knows to be false to any peace officer or other official with the intent to instigate an investigation of an alleged criminal matter or impede the investigation of an actual criminal matter;

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

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

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

(5) Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding such investigation.

A person who violates this section commits the offense of false reporting. (*Ref 28-907 RS Neb*) (*Ord 468, 9/13/82*) (*Amended by Ord 734, 10/26/98*)

§6-336 REMOVAL OF VEHICLES AND MACHINERY:

In addition to all other remedies and penalties, any vehicle or machinery described in section 6-333 may be removed by the City or by someone designated by the City. If a vehicle is removed, the provisions of 6-332 shall apply to said removal. If the property removed is machinery, the City shall mail a notice to the address of the property where the machinery was located attempting to notify the owner of the machinery's removal and that failure to request a hearing with the City within five (5) days after the date the notice was mailed will cause the title to the property to vest in the City and the machinery may be sold. Any person claiming such machinery shall be required to pay the cost of removal and storage of such machinery. If no response to the notice is received by the City within the prescribed time, then the title to the machinery shall immediately vest in the City and the same may be sold. Any proceeds from the sale of the machinery less any expenses incurred by the City in such removal, storage and sale shall be held without interest in a separate account for the benefit of the owner of the property for two (2) years. If not claimed within such period of time the proceeds shall then be paid into the General Fund. The City or someone designated by the City may enter onto private or public property to inspect or remove said vehicles or machinery.

Neither the owner, lessee nor occupant of the premises from which any abandoned motor vehicle shall be removed, nor the City shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the City or its contractual agent, or as a result of any subsequent disposition. (*Ord 592, 5/10/93*)

§6-337 MISDEMEANORS; DRIVING UNDER THE INFLUENCE:

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

- (1) While under the influence of alcoholic liquor or of any drug;
- (2) When such person has a concentration of 0.08 of one gram or more by weight of alcohol per 100 milliliters of his or her blood; or
- (3) When such person has a concentration of 0.08 of one gram or more by weight of alcohol per 210 liters of his or her breath. (*Ref 60-6,196(1) RS Neb*)

(B) Any person who operates or has in his or her actual physical control a motor vehicle in this municipality shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine. (*Ref 60-6,197(1) RS Neb*)

(C) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of this municipality may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this municipality while under the influence of alcoholic liquor or drugs in violation of division (A) of this section. (*Ref 60-6,197(2) RS Neb*)

(D) Any peace officer who has been duly authorized to make arrests for violation of traffic laws of this state or ordinances of this municipality may require any person who operates or has in his or her actual physical control a motor vehicle in this municipality to submit to a preliminary test of his or her breath for alcohol concentration if the officer has reasonable grounds to believe that such person has alcohol in his or her body, has committed a moving traffic violation, or has been involved in a traffic accident. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of division (A) of this section shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of an offense. (*Ref 60-6,197(3) RS Neb*)

(E) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of division (A) of this section, or if any person refuses to submit to such test or tests required pursuant to this section, the person shall be subject to the administrative revocation procedures provided in sections 60-6,205 to 60-6,208 RS Neb and shall be guilty of an offense. (*Ref 60-6,197(4) RS Neb*)

(F) Upon the conviction of any person for violation of this section, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests pursuant to a permit issued in accordance with section 60-6,201 RS Neb for the test administered and the analysis thereof if such test was actually made. (*Ref 60-6,203 RS Neb*) (*Ord 633, 5/23/94*) (*Amended by Ord 788, 8/25/03*)

§6-338 MISDEMEANORS; DRIVING UNDER THE INFLUENCE; PERSON UNDER TWENTY-ONE YEARS OF AGE:

(1) It shall be unlawful for any person under twenty-one (21) years of age to operate or be in the actual physical control of any motor vehicle:

(a) When such person has a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood but less than the concentration prescribed under subdivision (1) (b) of section 60-6,196 RS Neb; or

(b) When such person has a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath but less than the concentration prescribed under subdivision (1)(c) of section 60-6,196 RS Neb.

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

(3) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of the municipality may require any person under twenty-one (21) years of age to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the concentration of alcohol in such blood or breath when the officer has probable cause to believe that such person was driving or was in actual physical control of a motor vehicle in the municipality in violation of this section. Such peace officer may require such person to submit to a preliminary breath test. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of this section shall be placed under arrest.

(4) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood or breath for a determination of the concentration of alcohol. If the chemical test discloses the presence of a concentration of alcohol in violation of this section, or such person refuses to submit to such test or tests required pursuant to this section shall be guilty of an offense.

(5) Upon the conviction of any person for the violation of this section, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests pursuant to a permit issued in accordance with section 60-6,201 RS Neb, for the test administered and the analysis thereof if such test was actually made. *Ref 60-6,211.01; 60-6,211.02; 60-6,203 RS Neb) (Ord 634, 5/23/94) (Amended by Ord 740, 7/12/99)*

§6-339 MISDEMEANORS; STALKING:

Any person who willfully and maliciously harasses another person with the intent to terrify, threaten, or intimidate commits the offense of stalking. For purposes of this section, harass shall mean to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose, and course of conduct shall mean a pattern of conduct composed of a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning the person. *(Ref 28-311.02, 28-311.03 RS Neb) (Ord 635, 5/23/94)*

§6-340 MISDEMEANORS; UNDER INFLUENCE OF A CONTROLLED SUBSTANCE:

It shall be unlawful for any person to be under the influence of any controlled substance for a purpose other than the treatment of a sickness or injury as prescribed or administered by a practitioner as defined in section 28-401 RS Neb (*Ref 28-417 RS Neb*) (*Ord 785, 8/25/03*)

§6-341 MISDEMEANORS; FISHING IN THE CITY POND:

It shall be unlawful to fish in the Pawnee City Pond for the following species of fish protected by Rules and Regulations of the Nebraska Game and Parks Commission, except as hereinafter permitted:

(A) Largemouth bass and bluegill shall be fished by use of only barbless hooks or hooks with flattened barbs. Possession of either fish species from this water body is prohibited. Any largemouth bass or bluegill caught must be returned unharmed to the City Pond immediately.

(B) Only barbless hooks or hooks with flattened barbs are allowed to be used in the City Pond.

(C) Channel catfish are subject to a daily bag limit of three (3) per person.

(D) DAILY BAG LIMIT shall be defined as the number of channel catfish that may be taken from midnight to midnight. Any channel catfish that is not to be counted in the bag limit must be returned immediately into the water with as little injury as possible. Any channel catfish placed on a stringer or in a container, or not returned immediately into the water must be counted in the bag. Any channel catfish in possession while actively fishing will be subject to the bag limit. (*Ord 780, 9/8/03*)

§6-342 CURFEW:

(A) It shall be unlawful for any person fifteen (15) years of age or younger to be upon or be in a vehicle upon any of the streets, roads, alleys, parks, or public places in the City, or be in any places of public amusement or recreation in the City after the hour of 11:00 p.m. and before the hour of 6:00 a.m. unless such person is:

- (1) Accompanied by a parent, guardian or other adult of the age of nineteen (19) or older having legal care, custody, or control of such person;
- (2) Traveling in connection with lawful employment;
- (3) Responding to an emergency;
- (4) Attending a school, community or religious function, or returning home by most direct route from any out of town event or activity.

(B) Should school, community or religious function extend beyond the curfew, the curfew will commence one-half (1/2) hour after the termination of such activity.

(C) *Penalty.*

(1) *First Offense.* Minor shall be cited, shall pay a fine of twenty dollars (\$20.00) and parents/guardian or responsible adult will be contacted to retrieve the child.

(2) *Second Offense.* Minor shall be cited, ordered to pay a fine of thirty dollars (\$30.00), a responsible adult will be contacted to retrieve the child, and the parents/guardian will be cited and shall pay a fine of fifty dollars (\$50.00).

(3) *Third Offense Within One (1) Year Following the First Offense.* Child will be referred to Juvenile Court system. (*Ord 862, 7/14/08*)

§6-343 EXCESSIVE NOISE:

It shall be unlawful for any person within the City to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcasts, or musical recordings, in or upon any street or alley or public place in such a manner as to be audible to any person at any point or place more than fifty (50) feet from the source. The prohibition set forth here in shall not apply to:

(1) Such activity when conducted in connection with any activity or event sponsored by a school, church, nonprofit organization, business, or governmental entity;

(2) Such activity when conducted in connection with any activity open to the public such as a fair, festival, parade, car show, outdoor theater, carnival, circus, or athletic event;

(3) Broadcasts, musical recordings or other recordings from a school, church, place of business, or office of a nonprofit organization or governmental entity for the purpose of public enjoyment or holiday celebration; or

(4) Such activity if a permit for same has been issued by the Governing Body, or its authorized designee, which permit may include such conditions as the Governing Body, or its authorized designee, shall deem necessary and appropriate; provided however, such conditions shall be reasonably related to preserving the public peace, and shall not infringe upon the right of free speech of the permittee. (*Ord 868, 7/13/09*)

§6-344 GAMBLING:

(A) For the purpose of this section, the definitions found in Neb. RS 28-1101 shall be used.

(B) A person commits the offense of promoting gambling if he or she knowingly:

(1) Advances or profits from any unlawful gambling activity by:

(a) Engaging in bookmaking;

(b) Receiving, in connection with any unlawful gambling scheme or enterprise, any amount of money played in the scheme or enterprise in any one day; or

(c) Betting something of value in an amount of \$500 or more with one or more persons in one day; or (Neb. RS 28-1102 and 28-1103)

(2) Participates in unlawful gambling as a player by betting less than \$500 in any one day. (Neb. RS 28-1104)

(C) (1) A person commits the offense of possession of a gambling device if he or she manufactures, sells, transports, places, possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing that it shall be used in the advancement of unlawful gambling activity.

(2) The owner or operator of a retail establishment who is not a manufacturer, distributor, or seller of mechanical amusement devices as defined under the Mechanical Amusement Device Tax Act, shall have an affirmative defense to possession of a gambling device described in division (C)(1) of this section if the device bears an unexpired mechanical amusement device decal as required by such Act. However, such affirmative defense may be overcome if the owner or operator had actual knowledge that operation of the device constituted unlawful gambling activity at any time such device was operated on the premises of the retail establishment.

(3) Notwithstanding any other provisions of this division, any mechanical game or device classified by the federal government as an illegal gambling device and requiring a federal Gambling Device Tax Stamp as required by the Internal Revenue Service in its administration of 26 U.S.C. 4461 and 4462, amended July 1, 1965, by Public Law 89-44, is hereby declared to be illegal. (Neb. RS 28-1107)

(D) In any prosecution under this section, it shall be an affirmative defense that the writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the advancement of an unlawful gambling activity. (Neb. RS 28-1108)

(E) Proof of possession of any gambling device shall be prima facie evidence of possession thereof with knowledge of its contents and character. (Neb. RS 28-1109)

(F) It shall be no defense to a prosecution under any provision of this section relating to gambling that the gambling is conducted outside this city and is not in violation of the laws of the jurisdiction in which it is conducted. (Neb. RS 28-1110)

(G) In addition to any other penalty, a sentencing court may order that any money, securities, negotiable instruments, firearms, conveyances, or electronic communication devices as defined in Neb. RS 28-833 or any equipment, components, peripherals, software, hardware, or accessories related to electronic communication devices, or any gambling devices be forfeited as a part of the sentence imposed if it finds by clear and convincing evidence adduced at a separate hearing in the same prosecution, conducted pursuant to Neb. RS 28-1601, that any or all such property was derived from, used, or intended to be used to facilitate a violation of this section. (Neb. RS 28-1111)

(H) In any prosecution for an offense defined in this section, when the defendant's status as a player constitutes an excusing condition, the fact that the defendant was a player shall constitute an affirmative defense. (Neb. RS 28-1112)

(I) Nothing in this section shall be construed to:

(1) Apply to or prohibit wagering on the results of horse races by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horse race meetings; or

(2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or Neb. RS 9-701; or.

(3) Apply to or prohibit the operation of games of chance, whether using a gambling device or otherwise, by authorized gaming operators within licensed racetrack enclosures or the participation or playing of such games of chance, whether participated in or played using a gambling device or otherwise, by individuals 21 years of age or older within licensed racetrack enclosures as provided in the Nebraska Racetrack Gaming Act. (Neb. RS 28-1113)

(J) In any prosecution under this section in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine, or other periodically printed publication of general circulation shall be admissible in evidence and shall constitute prima facie evidence of the occurrence of the event. (Neb. RS 28-1117) (*Ord 1043, 4/8/2024*)

Article 4. Penal Provisions

§6-401 VIOLATION; 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 756, 8/28/00)*

§6-402 VIOLATION; PENALTY: *(Repealed by Ord 756, 8/28/00)*

§6-403 ABATEMENT OF NUISANCE: *(Repealed by Ord 756, 8/28/00)*