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CHAPTER 6 – POLICE REGULATIONS

Article 1 – Dogs

§6-101 LICENSE

Any person who shall own, keep or harbor a dog over the age of six months within the City shall within 30 days after acquisition of the said dog acquire a license for each such dog annually by or before May 1 each year. The said tax shall be delinquent from and after May 10; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within ten days thereafter. Licenses shall be issued by the City Clerk upon the payment of a license fee which shall be set by the City Council and available for public inspection at the office of the Clerk. Said licenses 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 upon printed forms provided for such purpose his name and address and the name, breed, color, and sex of each dog owned and kept by him. A certificate that the dog has had a rabies shot effective for the ensuing year of the license shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (Neb. Rev. Stat. §17-526, 54-603, 71-4412) (Am. by Ord. No. 833, 5/20/99)

§6-102 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. (Neb. Rev. Stat. §54-603)

§6-103 LICENSE TAGS

Upon the payment of the license fee, the City Clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tag shall be properly attached to the collar or harness of every dog so licensed and shall entitle the owner to keep or harbor the said dog until April 30 following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the City Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the City Council for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the City Clerk to issue tags of a suitable design that are different in appearance each year. (Neb. Rev. Stat. §17-526, 54-603)

§6-104 WRONGFUL LICENSING

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

§6-105 OWNER DEFINED

Any person who shall harbor or permit any dog to be present for 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. (Neb. Rev. Stat. §54-606, 71-4401)

§6-106 RABIES; PROCLAMATION

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

§6-107 UNCOLLARED

Every dog found running at large upon the streets and public grounds of the City without a collar or harness is hereby declared a public nuisance. Uncollared dogs found running at large shall be killed or impounded in the city dog shelter by the City Police. (Neb. Rev. Stat. §54-605)

§6-108 RUNNING AT LARGE

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the City. It shall be the duty of the City Police to cause any dog found to be running at large to be taken up and impounded. "Running at large" shall mean any dog found off the premises of the owner and not under control of the owner or a responsible person either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526, 54-605)

§6-109 CAPTURE IMPOSSIBLE

The City 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. (Neb. Rev. Stat. §54-605)

§6-110 DANGEROUS DOGS; DEFINITIONS

For purposes of this article, the following definitions shall apply.

(1) “Animal Control Authority” shall mean an entity authorized to enforce the animal control laws of the City.

(2) “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 article 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.

(3) “Dangerous dog” shall mean any dog that, according to the records of the Animal Control Authority:

(a) Has killed or inflicted severe injury on a human being on public or private property;

(b) Has killed a domestic animal without provocation while the dog was off the owner's property; or

(c) Has been previously determined to be a potentially dangerous dog by an Animal Control Authority and the owner has received notice of such determination and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a dangerous dog if the threat, any injury that is not a severe injury, or the damage was sustained by a person who (i) at the time was committing a willful trespass as defined in Neb. Rev. Stat. §20-203, 28-520, or 28-521 or any other tort upon the property of the owner of the dog; (ii) was tormenting, abusing, or assaulting the dog; (iii) has in the past been observed or reported to have tormented, abused, or assaulted the dog; or (iv) was committing or attempting to commit a crime.

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

(5) “Owner” shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

(6) “Potentially dangerous dog” shall mean:

(a) Any dog that, when unprovoked, (i) inflicts a nonsevere injury on a human or injures a domestic animal either on public or private property; or (ii) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

(b) Any specific dog with a known propensity, tendency, or disposition to attack

when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

(7) "Severe injury" shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. Rev. Stat. §54-617)

§6-111 DANGEROUS DOGS; RESTRAINED

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

§6-112 DANGEROUS DOGS; CONFINED

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. (Neb. Rev. Stat. §54-619)

§6-113 DANGEROUS DOGS; FAILURE TO COMPLY

(1) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the Animal Control Authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the Animal Control Authority is pursuant to law and if the owner violated this article.

(2) In addition to any other penalty, a court may order the Animal Control Authority to dispose of a dangerous dog in an expeditious and humane manner.

(Neb. Rev. Stat. §54-620)

§6-114 DANGEROUS DOGS; ADDITIONAL REGULATIONS

Nothing in this article shall be construed to restrict or prohibit the City Council from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article.

(Neb. Rev. Stat. §54-624)

§6-115 INTERFERENCE WITH ANIMAL CONTROL

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

§6-116 KILLING AND POISONING

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

§6-117 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 on any public sidewalks, streets, or alleys in the City. Upon the complaint of any affected person 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 City Police shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such dog. Upon a second complaint within any 30-day period, the City Police shall be authorized to issue a citation as provided by this chapter. The provisions of this section shall not be construed to apply to the city animal shelter. (Neb. Rev. Stat. §17-526)

§6-118 FIGHTING

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

§6-119 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. (Neb. Rev. Stat. §54-601, 54-602)

§6-120 REMOVAL OF TAGS

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

§6-121 IMPOUNDING

(1) It shall be the duty of the City Police to capture, secure and remove in a humane manner to the city animal shelter any dog violating any of the provisions of this article. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and main-

tained at the pound for a period of not more than five days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the City Clerk within 24 hours after impoundment as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file in the office of the City Clerk. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release.

(2) If the dog is not claimed at the end of the required waiting period after public notice has been given, the City Police may dispose of it in accordance with the applicable rules and regulations pertaining to the same; provided, if in the judgment of the City Police a suitable home can be found for any such dog within the City, it shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this article. The City shall acquire legal title to any unlicensed dog impounded in the animal shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog.

(Neb. Rev. Stat. §17-548, 71-4408)

§6-122 ANIMAL SHELTER

The animal shelter shall be safe, suitable, and conveniently located for the impounding, keeping, and destruction of dogs. The said shelter shall be sanitary, ventilated, and lighted. (Neb. Rev. Stat. §17-548)

§6-123 RABIES SUSPECTED; IMPOUNDMENT

Any dog suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions of this article which has bitten any person and caused an abrasion of the skin shall be seized and impounded under the supervision of the Board of Health for a period of not less than 10 days. If upon examination by a veterinarian the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least 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. (Neb. Rev. Stat. §71-4406)

§6-124 INJURING OR DESTROYING PROPERTY OF OTHERS

It shall be unlawful for any person to own or allow to be in or upon any premises occupied by him or under his charge or control any dog that in any manner injures or destroys any real or personal property of any description belonging to another. If upon the trial of any offense mentioned in this section it shall appear to the judge that the person is guilty as charged in said complaint, said judge may, in addition to the usual judgment of conviction, order the person so offending to make restitution to the party injured in an amount equal to the value of the

property so injured or destroyed.

§6-125 REGISTRATION AND HOUSING OF GUARD DOGS

(1) Each guard dog used within the City shall be licensed as hereinbefore provided and registered as a guard dog. For registration, the following information shall be provided:

(a) The business name, address, and telephone number of the commercial or industrial property or place of business where the guard dog is to be used.

(b) The name, address, and telephone number of the dog's handler(s) who can be reached at any time during the day or night. For the purpose of this section, a handler is a person who is responsible for and capable of controlling the operations of a guard dog.

(c) The location where the dog is to be housed and a general description of its use.

(2) It shall be the responsibility of the owner of said guard dog to notify the Chief of Police of any changes recorded as part of the registration.

(3) Housing and facilities where any guard dog is utilized shall have anti-escape fences completely surrounding it and/or be an anti-escape building sufficient to house guard dogs. All gates and entrances to the area where the guard dog is housed, used, or trained shall be kept locked when not in use and clearly marked with signs warning of such guard dog. The Chief of Police may require additional measures be taken to protect the public from accidental contact with any guard dog.

§6-126 KENNEL LICENSE

(1) *Definition of Terms.* As used in this section, unless the context otherwise indicates:

(a) "Dog" shall be intended to mean both male and female.

(b) "Owner" shall be intended to mean person or persons, firms, associations or corporations owning, possessing, keeping or harboring a dog or permitting same to be or to remain on or about his or her premises.

(c) "Commercial dog kennel" shall be intended to mean the ownership, possession, keeping or harboring of one or more dogs over the age of six months for the purposes of boarding, breeding, feeding, buying, selling, or raising of such animals or any of said purposes, or permitting four or more dogs over the age of six months to be or to remain upon his or her premises.

(d) "Domestic dog kennel" shall be intended to mean the ownership, keeping or harboring of three dogs over the age of six months, not used for boarding, breeding, buying, selling or raising other than as domesticated pets in a residential district; all of said dogs shall be kept confined to the residence of the premises.

(2) *Kennel Area Defined.* The area comprising any kennel proposed to be licensed shall be definite and certain and the same shall be neither enlarged nor the location thereof changed without first obtaining the consent of the Planning Commission and City Council. No licensee in the feeding of said dogs shall openly expose dead animal flesh, garbage or refuse, or slaughter or kill any animal within said kennel for the purpose of permitting the dogs to feed upon the same; and provided further, it shall be the duty of the licensee of any kennel to keep the same in a clean state and free from any matter creating offensive odors.

(3) *Licensing Required.* Any person or persons maintaining a dog kennel, as defined above, shall be required to obtain a kennel license. Such license may be issued after application is made to the City Clerk and after a public hearing on said application is held before the Planning Commission and City Council. At the time of said application for kennel license, the owner shall present to the City Clerk, upon printed forms provided for such purpose, the owner's name and address; the location, description and details of said kennel on the premises; the number of dogs to be kept in said kennel; a certificate or other information showing compliance with all laws and regulations pertaining to dog kennels from the Zoning Administrator, the Board of Health and the Nebraska Humane Society; and a non-refundable application fee, as established in this section. No kennel shall be maintained nor shall a license be issued to a kennel that creates a nuisance in the immediate neighborhood through noise, odor, or unsanitary conditions. Upon the written complaint of two or more affected persons from different households, filed within any 30-day period with the Police Department or City Clerk, stating that any kennel has excessive noise, odor, or ordinance violation or, upon the issuance of three citations for ordinance violations pertaining to dogs within a six-month period, said complaint or violation may result in loss of the holder's license or impoundment or penalty as otherwise provided by this Code.

(4) *Licensing Fee and Deadlines.* The kennel license application fee shall be \$100.00. A fee of \$300.00 per year shall be charged for a commercial dog kennel license; a fee of \$200.00 per year shall be charged for a domestic dog kennel license for unneutered or unspayed dogs; and a fee of \$100.00 per year shall be charged for a domestic dog kennel license with all dogs either spayed or neutered. The person maintaining such kennel shall license the same by May 1 of each year. The license shall be delinquent from and after May 10. Any kennel license delinquent on or after June 1 shall require submission of a new application, with the required application fee and paper work for resubmission and approval by the Planning Commission and City Council.

(5) *License Revocation.* A kennel license so issued may be revoked after a hearing before the Planning Commission and City Council if said kennel is not operating in accordance with applicable city laws and zoning requirements. No kennel shall be maintained in a manner which constitutes a nuisance or a disturbance of the peace or in a manner which creates offensive odors to neighbors. Upon receipt of a complaint as required by this section, the Planning Commission shall set a hearing date to determine whether said license shall be recommended for revocation. Said recommendation shall go before the City Council, which may revoke said license.

(6) *Exception.* It is specifically provided that any person or persons maintaining a kennel, as defined above, shall not be required to comply with §6-101 requiring licensing of each dog in said kennel but it is specifically provided that each dog in said kennel over the age of six months shall have a certificate or other substantial proof evidencing that such dog in said kennel is currently vaccinated for rabies. Said certificate or other substantial proof shall be available for inspection to the officers of the Ashland Police Department upon request.

(7) *Penalties.* Any person or persons violating any of the provisions of this section shall be deemed guilty of an offense and upon conviction thereof, shall be punished with a fine of not more than \$500.00 for each offense; provided further, it shall be unlawful for any person to continue to operate and maintain or attempt to continue to operate and maintain a dog kennel within the zoning jurisdiction of the City after the revocation of his or her license to do so. In so doing, each and every day thereafter shall constitute a separate offense and upon conviction thereof, shall be punishable by a fine of not more than \$500.00 for each offense of which said person stands convicted.

(Neb. Rev. Stat. §17-526, 54-603, 71-4412) (Am. by Ord. Nos. 981, 3/18/04; 1087, 8/05/10)

§6-127 BUREAU OF DOG VIOLATIONS

There is hereby created the Bureau of Dog Violations within the powers and duties of the office of the City Clerk. A copy of each citation issued for a dog violation shall be deposited by the Ashland Police Department with the City Clerk, whose duty it shall be to collect all fines and to maintain appropriate and accurate records of all such fines paid.

§6-128 DOG VIOLATIONS; FINE SCHEDULE

(1) Any person having been issued a citation for a dog violation and desiring to plead guilty and waive court appearance may pay the City Clerk according to a schedule based upon elapsed time from the occurrence of the violation, excluding weekends and legal holidays. Such schedule shall be set by the City Council and shall be available for public inspection at the office of the City Clerk during office hours.

(2) The applicable fine may be paid to the City Clerk either in person during normal business hours of the city hall or by mail. In the event that any person issued a citation for a dog violation fails to respond to such citation within the appropriate time, excluding weekends and legal holidays, said person shall be liable to prosecution in the Saunders County Court for the offense or offenses charged and subject to the penalty provided for by the general penalties provision of this chapter. Whenever any person refuses, neglects or fails to comply with any of the requirements of these sections as herein provided, said person shall be denied the benefits of any of the provisions hereof.

(Am. by Ord. Nos. 852, 1/6/00; 1004, 8/18/05)

§6-129 ADOPTIONS; FEE SCHEDULE

(1) Any person who can provide a suitable home for any unclaimed dog as provided in this article may adopt such dog and become the new owner thereof by paying the City Clerk an adoption fee according to the following schedule:

(a) All spayed or neutered dogs are available for adoption upon payment of all boarding fees (up to five days) and administration of necessary rabies shots.

(b) All non-spayed or non-neutered dogs are available for adoption upon payment of all fees relating to spaying or neutering, administration of rabies shots and boarding fees (up to five days).

(2) All collected adoption fees shall be used to provide maintenance and care for impounded dogs, including veterinary care.
(Ord. No. 867, 4/20/00)

Article 2 – Animals Generally

§6-201 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. (Neb. Rev. Stat. §17-547)

§6-202 BANNED FROM CITY

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock. (Neb. Rev. Stat. §17-207)

§6-203 KILLING AND INJURING

No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal. (Neb. Rev. Stat. §28-1008, 28-1009)

§6-204 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. (Neb. Rev. Stat. §17-547)

§6-205 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. (Neb. Rev. Stat. §17-547)

Article 3 – General Offenses

§6-301 MAINTAINING A NUISANCE

It shall be unlawful for any person to erect, keep up or continue and maintain any nuisance to the injury of any part of the citizens of the City. (Neb. Rev. Stat. §18-1720, 28-1321)

§6-302 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. (Neb. Rev. Stat. §18-1720, 28-1321, 39-705)

§6-303 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. (Neb. Rev. Stat. §18-1720, 28-1321)

§6-304 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 from 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 street and alleys free of any growth of twelve inches (12”) or more in height of weeds, grasses, or worthless vegetation and free of any growth of eight inches (8”) or more in height if, within the same calendar year, the City has previously acted to remove weeds, grasses, or worthless vegetation exceeding twelve (12”) inches in height on the same lot or piece of ground and sought recovery of the costs and expenses of such work from the owner or occupant.

(3) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the City is prohibited; provided, 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: (a) to permit or maintain any growth of eight inches (8”) or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground located within the corporate limits during any calendar year if, within the same calendar year, the City has previously acted to remove weeds, grasses, or worthless vegetation exceeding twelve inches (12”) in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner; or (b) 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) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to occupant, if any, by personal service or certified mail. Within five (5) days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to abate and remove the nuisance, the City may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two (2) months after such work is done, the City may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or (b) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(7) For purposes of this section:

(a) "Litter" shall include, but not be limited to:

- (i) trash, rubbish, refuse, garbage, paper, rags, and ashes;
- (ii) wood, plaster, cement, brick, or stone building rubble;
- (iii) grass, leaves, and worthless vegetation;
- (iv) offal and dead animals; and
- (v) 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

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

(Neb. Rev. Stat. §17-563, 18-1720) (Am. by Ord. No. 1064, 6/5/08; 1078, 2/4/10)

§6-305 DISEASED OR DYING TREES

(1) All trees of the species and varieties of elm, *Zelkova*, and *Planera* that are in a diseased, dying, or dead condition or that may serve as a breeding place for the European elm bark beetle, *Scolytus multistriatus*, or other disease-carrying insects are hereby declared to be a public nuisance and shall be removed from the private property on which they are located upon notice by the City Police. For the purpose of carrying out the provisions of this section, the City Police shall have the authority to enter on private property to inspect the trees thereon. In the event that the trees are diseased or dead, notice shall be given to the owner of the property by mail or personal service and such notice shall allow the said owner ten days to remove and burn the said tree or trees. In the event that the owner is a nonresident, notice shall be made by publication in a newspaper of general circulation or by mail if the name and address is known.

(2) The person charged with the removal and burning may enter into an agreement with the City that such work be accomplished by the City and the expense and interest shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects, or refuses to enter into such an agreement or to remove the trees, the City Police may enter upon the property and proceed to direct the removal and burning of the trees and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the City after being properly billed, the costs shall be assessed against the property and certified by the City Clerk to the County Treasurer to be collected in the manner prescribed by law.

(3) In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. Failure to remove and burn the said trees shall be deemed to be an offense. (Neb. Rev. Stat. §18-1720)

§6-306 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 City. (Neb. Rev. Stat. §17-556)

§6-307 DISCHARGE OF FIREARMS

(1) 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 City, except that nothing in this section shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Neb. Rev. Stat. §17-556)

(2) It shall be unlawful for any person to discharge any firearm or weapon using any form of compressed gas as a propellant from any public highway, road or bridge in this state. (Neb. Rev. Stat. §28-1335)

§6-308 CONCEALED HANDGUNS

(1) It shall be unlawful for any person, including any city employee, except as allowed by subsection (2), to carry a concealed handgun in a city building, including but not limited to City Hall, Police Department, and/or in a city park. Conspicuous notice shall be posted in all city buildings and at all city parks that carrying a concealed handgun is prohibited in city buildings and in city parks.

(2) This section shall in no way limit the carrying of handguns by emergency and law enforcement personnel for lawful purposes related to their job duties while on duty. (Ord. No. 1037, 1/23/07)

§6-309 POSTING

It shall be unlawful for any person, firm or corporation to use the streets, sidewalks or public grounds of the City for signs, signposts, the posting of handbills or advertisements without written permission of the City Council. (Neb. Rev. Stat. §17-140)

§6-310 DISORDERLY CONDUCT

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the City by clamor or noise, intoxication, drunkenness, fighting, using of obscene or profane language in the streets or other public places or is otherwise indecent or disorderly conduct or lewd or lascivious behavior. (Neb. Rev. Stat. §17-129, 17-556)

§6-311 STREET GAMES

It shall be unlawful for any person to play catch, bat a ball, kick or throw a football, or to engage in any exercise or sport upon the city streets and sidewalks. Nothing herein shall be construed to prohibit or prevent the City Council from ordering certain streets and public places blocked off from time to time for the purpose of providing a safe area to engage in such exercise and sport. (Neb. Rev. Stat. §18-1720) 17-557

§6-312 OBSTRUCTION OF PUBLIC WAYS

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to or inconsistent with the public use of the same. (Neb. Rev. Stat. §17-142, 17-555, 17-557, 39-301, 39-302)

§6-313 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. (Neb. Rev. Stat. §18-1720)

§6-314 CURFEW

It shall be unlawful for any minor under the age of 18 years to ride in or operate any vehicle in or upon any street, alley, or other public place or to loiter, wander, stroll, loaf, or play in or upon any of the streets, alleys, or other public places between the hours of 11:00 P.M. of any day and 6:00 A.M. of the following day unless (1) accompanied by a parent, guardian or other adult person having the care, custody or control of said minor or (2) the minor is engaged in lawful employment or is on an emergency errand; provided, when an activity of the kind normally attended by minors under 18 years terminates after or less than one hour prior to 11:00 P.M. the curfew shall commence one hour after the termination of such activity.

§6-315 LOITERING AND VAGRANTS

It shall be unlawful for any person to loiter on the streets, in the park, on the sidewalk, or on

any other public ways and property at unreasonable hours and those persons who are unable to give a good and satisfactory reason why they should be there, including all vagrants and persons found without means of support of some legitimate business, shall be deemed to be guilty of loitering. (Neb. Rev. Stat. §17-556)

§6-316 MISREPRESENTATION BY MINOR

It shall be unlawful for any minor to represent that he is of the lawful age for the purpose of asking for, purchasing, or receiving any alcoholic beverages. (Neb. Rev. Stat. §53-180.01)

§6-317 ABANDONED AUTOMOBILES

(1)(a) No person shall cause any vehicle to be an abandoned vehicle as described in subsection (2). (Neb. Rev. Stat. §60-1907)

(b) 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. (Neb. Rev. Stat. §60-1908)

(2) A motor vehicle is an abandoned vehicle:

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

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

(c) 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;

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

(e) If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last registered owner under subsection (5) of this section; or

(f) If removed from private property by the City pursuant to a municipal ordinance.

No motor vehicle subject to forfeiture under Neb. Rev. Stat. §28-431 shall be an abandoned vehicle under this subsection.
(Neb. Rev. Stat. §60-1901) (Am. by Ord. No. 1079, 2/4/10)

(3) If an abandoned vehicle at the time of abandonment has no license plates of the current year or valid "In Transit" stickers issued pursuant to Neb. Rev. Stat. §60-376 affixed

and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250.00 dollars or less, title shall immediately vest in the City. (Neb. Rev. Stat. §60-1902)

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

- (i) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or
- (ii) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

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

- (i) It will be sold or will be offered at public auction after five days from the date such notice was mailed; or
- (ii) Title will vest in the City 30 days after the date such notice was mailed.

(c) If the City is notified that a lien or mortgage exists, the notice described in subsection (4)(b) of this section shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

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

- (i) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under subsection (4)(b)(i) of this section;
- (ii) 30 days after the date the notice is mailed if the City will retain the vehicle; or
- (iii) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(e) After title to the abandoned vehicle vests pursuant to subsection (4)(d) of this section, the 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 publication. (Neb. Rev. Stat. §60-1903)

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

agency will dispose of the vehicle.

(b) This subsection shall not apply to motor vehicles subject to forfeiture under Neb. Rev. Stat. §28-431.

(c) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this subsection unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (Neb. Rev. Stat. §60-1903.01)

(6) Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the City, shall be held by the City without interest for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the General Fund of the City. (Neb. Rev. Stat. §60-1905)

(7) Neither the owner, 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 or as a result of any subsequent disposition. (Neb. Rev. Stat. §60-1906)

(8) 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. Rev. Stat. §60-1909)

(9) For purposes of this section, "public property" means any public right of way, street, highway, alley or park or other state-, county-, or city-owned property; "private property" means any privately owned property which is not included within the definition of public property. (Neb. Rev. Stat. §60-1901)

(10) Any person who violates the provisions of this section is guilty of an offense. (Neb. Rev. Stat. §60-1901 through 60-1911) (Am. by Ord. No. 876, 5/18/00)

§6-318 UNLICENSED OR INOPERABLE VEHICLES

No person in charge or control of any property within the City, other than city property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on such property longer than 30 days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time; provided, this section shall not apply to a vehicle in an enclosed building; to a vehicle on the premises of a business enterprise, operated in a lawful place and manner, when such vehicle is necessary to the lawful operation of the business; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated and any person violating this section shall be guilty of an offense.

§6-319 HITCHING RIDES

It shall be unlawful for any person to be found soliciting trucks, automobiles, or other vehicles to stop or slow down for the purpose of asking for a ride or riding on the said vehicle. (Neb. Rev. Stat. §18-1720)

§6-320 INDECENT EXPOSURE

It shall be unlawful for any person to appear in a state of nudity or in any indecent or lewd dress or condition in any public place; or in any such place to make any indecent exposure of his or her person or private parts thereof or the private parts of another, to conduct himself in a lewd or lascivious manner, or to appear in any such place in dress not belonging to his sex.

§6-321 OBSCENE CONDUCT

It shall be unlawful for any person to urinate or defecate in any place open to the public view, to be guilty of any lewd, lascivious or obscene conduct, to sing any lewd or obscene song, ballad or other words in any public place or any other place where other persons are present, or to exhibit any animal indecently.

§6-322 UNNECESSARY NOISE

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcast or musical recordings in or upon any street, alley or other public place in such a manner as to be audible to other persons more than 50 feet from the source. Persons operating such devices while participating in licensed or permitted activities such as parades shall not be deemed in violation of this section. (Ord. No. 906, 6/14/01)

Article 4 – Sexual Predators

§6-401 FINDINGS AND INTENT

(1) Sexual predators who use physical violence and prey on children present an extreme threat to public safety. Sexual predators are extremely likely to use physical violence or to repeat their offenses. Most sexual predators commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, extremely exorbitant.

(2) It is the intent of this article to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators are prohibited from establishing temporary or permanent residence.
(Ord No. 1014, 11/17/05) (Am. by Ord No. 1025, 6/20/06)

§6-402 DEFINITIONS

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

“Child care facility” shall mean a facility licensed pursuant to the Nebraska Child Care Licensing Act.

“Reside” or “residence” shall mean a place where a person abides, lodges, lives or sleeps for five or more aggregate working days.

“School” shall mean any public, private, denominational or parochial school that meets the requirements for accreditation or approval prescribed by Nebraska law.

“Sexual predator” shall mean an individual who is required to register under Nebraska Sex Offender Registration Act, who has a high risk of recidivism as determined by the Nebraska State Patrol under Neb. Rev. Stat. §29-4013, and who has victimized a person 18 years of age or younger.

(Ord No. 1014, 11/17/05) (Am. by Ord. No. 12025, 6/20/06)

§6-403 SEX OFFENDER RESIDENCY

(1) *Prohibited Location of Residence.* It is unlawful for any sexual predator to reside within 500 feet of any school or child care facility.

(2) *Measurement of Distance.* For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the residence to the nearest outer property line of a school or child care facility.

(3) *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$500.00 for each violation. Each day that a person is in violation of this section shall constitute a separate offense and violation.

(4) *Exceptions.* A person residing within 500 feet of any school or child care facility does not commit a violation of this section if any of the following apply:

(a) The person was a minor when he/she committed the offense or is a minor and not subject to the Nebraska Sex Offender Registration Act because he/she was not convicted as an adult;

(b) The person resides within a prison or a correctional or treatment facility operated by the State or a political subdivision;

(c) The person established residence before July 1, 2006, and has not moved from that residence; or

(d) That person established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(Ord. No. 1014, 11/17/05) (Am. by Ord. No. 1025, 6/20/06)

§6-404 PROPERTY OWNERS; PENALTIES

(1) It is unlawful to let or rent any place, structure or part thereof, trailer or other conveyance with the knowledge that it will be used as residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this article.

(2) A property owner's failure to comply with the provisions of this section shall constitute a violation of this section and shall subject the property owner to a fine of \$500.00. The City may seek any other relief as otherwise provided by law. Each day a person is in violation of this section shall constitute a separate offense and violation.

(Ord. No. 1014, 11/17/05) (Am. by Ord. No. 1025, 6/20/06)

Article 5 – Penal Provisions

§6-501 VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. Nos. 870, 5/3/00; 1014, 11/17/05)

§6-502 ABATEMENT OF NUISANCE

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

(2) Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(Neb. Rev. Stat. §18-1720, 18-1722) (Am. by Ord. No. 1014, 11/17/05)