

## **CHAPTER 6: POLICE REGULATIONS**

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## ARTICLE 1. DOGS

### **§ 6-101 DOGS/CATS; LICENSE AND TAX REQUIRED.**

Any person who shall own, keep, or harbor a dog/cat over the age of four (4) months within the Village shall within thirty (30) days after acquisition of the said dog/cat acquire a license for each such dog/cat annually by or before the first (1st) day of January of each year. The said tax shall be delinquent from and after February fifteenth (15th); provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to February fifteenth (15th) of any year, shall be liable for the payment of the dog/cat tax levied herein. License shall be issued by the Village Clerk upon the payment of a license fee of six (\$6.00) dollars, plus the \$1.25 fee required under 54-603(3) RS Neb. for each male dog/cat and spayed dog/cat and six (\$6.00) dollars, plus the \$1.25 fee required under 54-603(3) for each unspayed female dog/cat. An additional six (\$6.00) dollars, plus the \$1.25 fee required under 54-603(3) RS Neb. shall be charged for each delinquent license issued. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog/cat. The owner shall state at the time the application is made upon printed forms provided for such purpose, his or her name and address and the name, breed, color and sex of each dog/cat owned and kept by him or her. A certificate that the dog/cat has 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. (*Ref. 17-526, 54-603, 71-4412 RS Neb.*) (*Amended by Ord. Nos. 09-025, 11/2/09; 15-04, 4/6/15; 16-06, 4/6/16*)

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

Every service animal shall be licensed as required by the Municipal Code, but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of the required license tax. (*Ref. 54-603 RS Neb.*) (*Ord. No. 98-23, 8/3/98*)

### **§ 6-102 DOGS/CATS; LICENSE TAGS.**

Upon the payment of the license fee, the Village Clerk shall issue the owner of the dog/cat a license certificate and a metallic tag for each dog/cat so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs/cats so licensed and shall entitle the owner to keep or harbor the said dog/cat until the thirty-first (31st) day of December following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Village Clerk shall issue a duplicate or new tag for the balance for which the license tax has been paid and shall charge and collect a fee of one dollar (\$1.00) for each duplicate or new tag

issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Village 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. No. 15-04, 4/6/15)*

**§ 6-103 DOGS; WRONGFUL LICENSING.**

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

**§ 6-104 DOGS; OWNER DEFINED.**

Any person possessing, keeping, harboring, or having charge or control of any domestic or hybrid animal or permitting any domestic animal to habitually be or remain on or be lodged or fed within the person's house, yard, or premises. This term does not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic or hybrid animals owned by other persons for a period of not more than thirty (30) days. *(Ref. 54-606, 71-4401 RS Neb.)*

**§ 6-105 DOGS; PROCLAMATION.**

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

**§ 6-106 DOGS; UNLICENSED.**

All dogs found running at large upon the streets and public grounds of the Municipality without a collar or harness with a metal tag affixed as aforesaid, are hereby declared a public nuisance. Unlicensed dogs found running at large shall be impounded in the Municipal Dog Shelter by the Municipal Police. *(Ref. 17-526, 71-4408 RS Neb.)*

**§ 6-107 DOGS; RUNNING AT LARGE.**

It shall be the duty of the Municipal Police to cause any dog found to be running at large within the Municipality to be taken up and impounded. "Running at Large" shall mean any dog found off the premise 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.

**§ 6-108 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.*)

**§ 6-109 DOGS; VICIOUS.**

It shall be unlawful for any person to own, keep, or harbor any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite, without the said dog being securely held by a chain. If any vicious or dangerous dog is allowed to run at large, the Municipal Police shall have the authority to put the dog to death. Upon the written complaint of two (2) or more affected persons from different households, filed with the Municipal Clerk's office, that any dog owned by the person named in the complaint is committing injury to persons or property, or is an annoyance, dangerous, offensive or unhealthy, the Chairman shall notify the owner to restrain such dog.

**§ 6-110 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 on 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 Municipal Police shall notify the owner to silence and restrain such dog. The provisions of this section shall not be construed to apply to the Municipal Dog Shelter.

**§ 6-111 DOGS; LIABILITY OF OWNER.**

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person.

The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (*Ref. 54-601, 54-602 RS Neb.*)

### **§ 6-112 DOGS; VIOLATIONS.**

The owner of any dog allowed to run at large or of any unlicensed dog shall be warned of such violations by the Municipal Police. He will be cited the sections violated, the nature of the violation, and the corrective action required. Corrective action must be taken within twenty-four (24) hours after being warned and failure to comply shall result in the dog being impounded and the owner shall be guilty of a misdemeanor. Upon conviction thereof, the owner shall be fined in a sum of not less than twenty-five (\$25.00) dollars for the first offense, and not less than fifty (\$50.00) dollars for the second offense and each offense thereafter, and shall stand committed to the county jail until such fine and costs of prosecuting are paid. (*Amended by Ord. No. 118, 4/7/76*)

### **§ 6-113 DOGS; IMPOUNDING.**

It shall be the duty of the Municipal Police to capture, secure, and remove in a humane manner to the Municipal Animal Shelter any dog violating any of the provisions of this Article. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than three (3) days for licensed dogs and five (5) days for unlicensed dogs 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 Municipal Auditorium within twenty-four (24) hours after impoundment as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of the costs incurred by the Municipality for each day of impoundment and ten (\$10.00) dollars as a general impoundment fee. The owner shall then be required to comply with the licensing and rabies vaccination requirements within seventy-two (72) hours after release. If the dog is not claimed at the end of required waiting period after public notice has been given the Municipal Police may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, that if, in the judgment of the Municipal Police, a suitable home can be found for any such dog within the Municipality, the said dog shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this Article. The Municipality shall acquire legal title to any unlicensed dog impounded in the Animal Shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog. (*Ref. 17-548, 71-4408 RS Neb.*)(*Amended by Ord. No. 144, 12/5/77*)

**§ 6-114 DOGS; 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. (Ref. 17-548 RS Neb.)

**§ 6-115 DOGS; RABIES SUSPECTED.**

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

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

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

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

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

(2) (a) Except as provided in division (2)(b) of this section, whenever any person has been bitten or has an abrasion of the skin caused by an animal owned by another person, which animal has been vaccinated in accordance with section 71-4405 RS Neb., or if such an injury to a person is caused by an owned dog, cat, or other animal determined by the department to be a rabid species amenable to rabies protection by immunization which has been vaccinated, the animal shall be confined by the owner or other responsible person as required by the rabies control authority for a period of at least ten (10) days and shall be observed and examined by a veterinarian at the end of the ten (10)-day period. If no clinical signs of rabies are found by the veterinarian, the animal may be released from confinement.

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

(3) Any dog, cat, or other animal of a rabid species which has bitten a person or caused an abrasion of the skin of a person and which is unowned or the ownership of which cannot be determined within

seventy-two (72) hours of the time of the bite or abrasion shall be immediately subject to any tests which the department believes are necessary to determine whether the animal is afflicted with rabies. The seventy-two (72)-hour period shall include holidays and weekends and shall not be extended for any reason. The tests required by this subsection may include tests which require the animal to be destroyed. (Ref. 71-4406 RS Neb.)

### **§ 6-115.01 ANIMALS; RABIES; TO REDEFINE TERMS; DOMESTIC ANIMALS; DOGS AND CATS.**

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

**CAT.** A cat which is a household pet.

**DEPARTMENT.** The state Department of Health and Human Services.

**DOMESTIC ANIMAL.** Any dog of the species *Canis familiaris*, cat of the species *Felis domesticus*, or ferret of the species *Mustela putorius furo*.

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

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

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

**RABIES CONTROL AUTHORITY.** Village health and law enforcement officials who shall enforce the provisions of this chapter relating to the vaccination and impoundment of domestic or hybrid animals. Such public officials shall not be responsible for any accident or disease of a domestic or hybrid animal resulting from the enforcement of such sections.

**VACCINATION AGAINST RABIES.** The inoculation of a domestic or hybrid animal with a United States Department of Agriculture-licensed rabies vaccine administered consistent with its labeling. The vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska or licensed in the state where the vaccination was administered. (Ref. 71-4401 RS Neb.) (Ord. No. 20-01, 1/8/20)

**§ 6-116 DOGS; CONTRACT WITH HUMANE SOCIETY.**

The Village Board shall have the power and authority to enter into a contract with the Lancaster County Humane Society for the purpose of securing the services of the Humane Society to provide for a Municipal Animal Shelter and to perform all of the functions required of the Village Marshal under Chapter 6, Article 1 of the Hallam Municipal Code regarding the catching, securing, keeping, and controlling dogs within the Village limits; to further provide for said Humane Society providing notices as required by the Hallam Municipal Code. In the event that the Village Board enters into such an agreement, the terms of said contract shall be kept on file with the Village Clerk and made available to the public during normal working hours. (*Ord. No. 153, 9/6/78*)

**§ 6-117 DANGEROUS DOGS; DEFINITIONS.**

**ANIMAL CONTROL AUTHORITY** shall mean an entity authorized to enforce the animal control laws of a municipality and includes any local law enforcement agency or other agency designated by the Village to enforce the animal control laws of the Village.

**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.**

(a) Any dog that, according to the records of the animal control authority:

1. Has killed a human being;
2. Has inflicted injury on a human being that requires medical treatment;
3. Has killed a domestic animal without provocation; or
4. Has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice of such determination from an animal control authority or an animal control officer, and the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

(b) A dog shall not be defined as a **DANGEROUS DOG** if the individual was tormenting, abusing, or assaulting the dog at the time of the injury or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog.

(c) A dog shall not be defined as a **DANGEROUS DOG** if the injury, damage, or threat was sustained by an individual who, at the time, was committing a willful trespass as defined in sections 20-203, 28-520, or 28-521 RS Neb., was committing any other tort upon the property of the owner of the dog, 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.

(d) A dog shall not be defined as a **DANGEROUS DOG** if the dog is a police animal as defined in section 28-1008 RS Neb.

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

**MEDICAL TREATMENT.** Treatment administered by a physician or other licensed health care professional.

**OWNER** shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

**POTENTIALLY DANGEROUS DOG** shall mean:

(a) Any dog that when unprovoked;

1. Inflicts an injury on a human being that does not require medical treatment; or
2. Injures a domestic animal; or

3. Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or

(b) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

**SEVERE INJURY** shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim. (Ref. 54-617 RS Neb.) (Ord. No. 3-90, 4/9/90) (Amended by Ord. No. 10-006, 5/3/10)

**§ 6-118 DANGEROUS DOGS; RESTRAINED.**

(1) A dangerous dog that has been declared as such shall be spayed or neutered and implanted with a microchip identification number by a licensed veterinarian within thirty (30) days after such declaration. The cost of both procedures is the responsibility of the owner of the dangerous dog. Written proof of both procedures and the microchip identification number shall be provided to the animal control authority after the procedures are completed.

(2) 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.

(3) Except as provided in subsection (4) of this section or for a reasonable veterinary purpose, no owner of a dangerous dog shall transport such dog or permit such dog to be transported to another county, city, or village in this state.

(4) An owner of a dangerous dog may transport such dog or permit such dog to be transported to another county, city, or village in this state for the purpose of permanent relocation of the owner if the owner has obtained written permission prior to such relocation from the animal control authority of the county, city, or village in which the owner resides and from the county, city, or village in which the owner will reside. Each animal control authority may grant such permission based upon a reasonable evaluation of both the owner and the dog, including if the owner has complied with the laws of this State and of the county, city, or village in which he or she resides with regard to dangerous dogs after the dog was declared dangerous. An animal control authority shall not grant permission under this section if the county, city, or village has an ordinance or resolution prohibiting the relocation of dangerous dogs. After the permanent relocation, the animal control authority of the county, city, or village in which the owner resides shall monitor the owner and such dog for a period of at least thirty (30) days but not to exceed ninety (90) days to ensure the owner's compliance with the laws of this state and of such county, city, or village with regard to dangerous dogs. Nothing in this subsection shall permit the rescindment of the declaration of dangerous dog. *(Ref. 54-618 RS Neb.) (Ord. No. 3-90, 4/9/90)*

**§ 6-119 DANGEROUS DOGS; CONFINED.**

(1) No person, firm, partnership, limited liability company, or corporation shall own, keep, or harbor or allow to be in or on any premises occupied by him, her, or it or under his, her, or its charge or control any dangerous dog without such dog being confined so as to protect the public from injury.

(2) While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at least one foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least ten (10) feet from any property line of the owner.

The owner of a dangerous dog shall post warning signs on the property where the dog is kept that are clearly visible from all areas of public access and that inform persons that a dangerous dog is on the property. Each warning sign shall be no less than ten (10) inches by twelve (12) inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three (3) inches high on a black background. *(Ref. 54-619 RS Neb.) (Ord. No. 3-90, 4/9/90)*

**§ 6-119.01 ANIMALS; RABIES; DOMESTIC ANIMALS; POST-INCIDENT MANAGEMENT.**

Any domestic animal which has bitten any person or caused an abrasion of the skin of any person shall be subjected to post-incident management as provided in the rules and regulations adopted and promulgated by the Department. *(Ref. 71-4406 RS Neb.) (Ord. No. 20-01, 1/8/20)*

**§ 6-119.02 ANIMALS; RABIES; DOMESTIC OR HYBRID ANIMALS OR LIVESTOCK; POST-EXPOSURE MANAGEMENT.**

Domestic or hybrid animals or livestock known to have been exposed to a confirmed or suspected rabid animal shall be subjected to post-exposure management as provided in the rules and regulations adopted and promulgated by the Department. *(Ref. 71-4407 RS Neb.) (Ord. No. 20-01, 1/8/20)*

**§ 6-120 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. *(Ref. 54-620 RS Neb.)*

(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. *(Ref. 54-621 RS Neb.)*

(3) (a) Any owner whose dangerous dog inflicts on a human being a serious bodily injury as defined in section 28-109 RS Neb. is guilty of a Class I misdemeanor for the first offense, whether or not the same dangerous dog is involved.

(b) It is a defense to a violation of division (3)(a) of this section that the dangerous dog was, at the time of the infliction of the serious bodily injury, in the custody of or under the direct control of a person other than the owner or the owner's immediate family. *(Ref. 54-622.01 RS Neb.)*

(4) Effect of prior conviction. If a dangerous dog of an owner with a prior conviction under this Article attacks or bites a human being or domestic animal, in addition to any other penalty, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. *(Ref. 54-623 RS Neb.) (Ord. No. 3-90, 4/9/90) (Amended by Ord. No. 10-007, 5/3/10)*

## **§ 6-121 DANGEROUS DOGS; ADDITIONAL REGULATIONS.**

Nothing in this article shall be construed to restrict or prohibit any governing body of the municipality from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. *(Ref. 54-624 RS Neb.) (Ord. No. 3-90, 4/9/90)*

## **§ 6-122 LIMITATION ON NUMBER OF CATS AND/OR DOGS.**

(A) It shall be unlawful and a public nuisance for any person to own, keep, harbor, maintain or allow to be kept, harbored, or maintained more than five (5) dogs, cats or any combination of such animals at any residence, dwelling or premises.

(B) No person shall own, keep, harbor, or maintain in, about, or upon any residence, dwelling, or premises, more than five (5) dogs, cats or any combination at any one time. Provided however, the offspring of any dog or cat shall not count toward the maximum number of dogs or cats allowed, for a period of four (4) months after the birth of said offspring. It being the intention of this section to limit the number of dogs, cats or any combination to five (5) per residence, dwelling or premises.

(C) Any person who owns, keeps, harbors, or maintains more than five (5) dogs, cats or any combination of such animals at their residence, dwelling, or premises shall be grandfathered and may retain the additional dogs or cats in excess of the limit set forth in subsections (A) and (B) if the person had said additional dog or cat licensed in the Village of Hallam prior to April 1, 2015.

(D) (1) Any person grandfathered under subsection (C) shall cease to be grandfathered for the additional dog or cat once said additional dog or cat no longer are owned, kept, harbored, or maintained at said residence, dwelling, or premises, said additional dog or cat dies, or said additional dog or cat is not licensed in accordance with the provisions set forth in this chapter. Any person grandfathered under subsection (C) shall not increase the number of dogs or cats at said person is grandfathered for at said residence, dwelling, or premises, except for the offspring of any dog or cat so grandfathered at said residence, dwelling, or premises shall not count toward the maximum number of dogs or cats for a period of four (4) months after the birth of said offspring.

(2) As an example, if a person was grandfathered to have a combination of seven (7) dogs and cats and one of the animals died, then that person would be grandfathered to have a combination of six (6) dogs and cats.

(E) Any person desiring to keep or harbor more than five (5) dogs, cats or any combination of such animals at their residence, dwelling or premises may apply for a permit for each additional the dog or cat they wish to keep or harbor at their residence, dwelling or premises. Said permit fee shall be established by resolution adopted by the Village Board and shall be valid from January 1 to December 31 of the year the permit is issued. Prior to a permit being issued the chief of police, animal control officer, or their designee shall inspect the premises to ensure that the premises is a clean and healthy environment, capable of supporting the additional dogs or cats, and all other applicable ordinances and regulations are satisfied. Said permit shall not be available to premises with a potentially dangerous or dangerous animal and shall not be transferable. Said permit may be revoked if the owner fails to conform with the provisions of this chapter. In addition to said permit any person desiring to keep or harbor more than five (5) dogs, cats or any combination of such animals must license said animals in accordance with the provisions set forth in this chapter.

(F) Any person convicted of violating this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum of not more than five hundred dollars (\$500.00), recoverable with costs, except that each person so convicted shall be fined in a sum of not less than fifty dollars (\$50.00) for the first offense; not less than one hundred dollars (\$100.00) for a second offense; and not less than two hundred dollars (\$200.00) for the third offense and each offense thereafter. *(Ord. No. 15-01, 3/2/15)*

## ARTICLE 2. ANIMALS GENERALLY

### § 6-201 ANIMALS; BANNED FROM MUNICIPALITY.

It shall be unlawful for any person to keep or maintain within the corporate limits any mule, sheep, cow, goat, swine or other livestock. It shall further be unlawful for any person to keep or maintain within the corporate limits any cow or horse except in number and under conditions as established elsewhere in this Code. *(Ref. 17-207 RS Neb.)(Amended by Ord. Nos. 81-174, 5/13/81; 83-196, 9/12/83)*

### § 6-202 ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; DEFINITIONS.

For purposes 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 Village or any other city or village, or any other public official authorized by any 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 sheriff as authorized pursuant to 81-201 RS Neb. 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. (*Ref. 28-1008 RS Neb.*) (*Amended by Ord. Nos. 91-3, 4/8/91; 11-003, 7/11/11; 13-02, 2/4/13; 16-07, 4/6/16; 17-14, 12/6/17*)

## **§ 6-203 ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY.**

(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, bum, 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 village or any other city or village, or any other public official authorized by the village 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 81-201 RS Neb. 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.

*(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 29-422 to 29-429 RS Neb.

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

*(C) Violation.*

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

(2) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. (Ref. 28-1008, 28-1009, 28-1012 RS Neb.) (Ord. No. 91-3, 4/8/91) (Amended by Ord. Nos. 13-02, 2/4/13; 16-07, 4/6/16; 17-14, 12/6/17; 23-01, 3/6/23)

## **§ 6-204 ANIMALS; ENCLOSURES.**

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

## **§ 6-205 FOWLS; RUNNING AT LARGE; POLICE REGULATIONS; PERMIT REQUIRED.**

(A) It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any fowls to run at large within the corporate limits, except as set forth herein.

(B) Any person residing in R-1 Residential Single Family zoned area may apply for a permit to have up to eight (8) chickens (no roosters), ducks, or other fowl. All fowl shall be thirty-six inches (36") or shorter in height.

(C) Only eight (8) total fowl shall be allowed at any one time.

(D) Fowl are to be kept in enclosures sufficient to keep fowl in enclosure and said enclosures where fowl are kept must be kept clean and in a condition that does not constitute a nuisance. *(Amended by Ord. No. 23-02, 8/7/23)*

#### **§ 6-206 HORSES AND COWS; MAINTENANCE WITHIN THE CORPORATE LIMITS.**

There shall be permitted to be maintained and kept within the corporate limits of the Village not more than two (2) animals from the horse and cow species upon a lot or tract under separate ownership; provided, that said animals be kept within enclosures adequately fenced for such purpose and further provided that no portion of any such enclosure within which any horse or cow is maintained or kept pursuant to this section shall be located closer than two hundred (200') feet from any dwelling or building used for human habitation except a dwelling or building located on the same lot or tract of land as the enclosure. It shall be unlawful for any person or collection of persons to violate the terms of this section and any such violation shall be subject to the penal provisions of this Article. *(Ord. No. 81-174, 5/13/81)(Amended by Ord. No. 83-196, 9/12/83)*

#### **§ 6-207 EQUINE; BOVINE; PROHIBITED ACTS.**

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

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

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

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

## ARTICLE 3. MISCELLANEOUS MISDEMEANORS

### § 6-301 MISDEMEANORS; IMPERSONATING AN OFFICER.

It shall be unlawful for any person other than a Municipal or State Police Officer to wear an official badge or uniform, or to falsely and willfully impersonate the said officials. (*Ref. 28-715.01 RS Neb.*)

### § 6-302 MISDEMEANORS; RESISTING OFFICER.

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

### § 6-303 MISDEMEANORS; ABUSING OFFICER.

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

### § 6-303.01 MISDEMEANORS; OBSTRUCTING A PEACE OFFICER.

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

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

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

(B) For purposes of this section, **POLICE ANIMAL** means a horse or dog owned or controlled by the state or any county, city, or village for the purpose of assisting a peace officer acting pursuant to his or her official authority. (*Ref. 28-906 RS Neb.*) (*Ord. No. 13-03, 2/4/13*)

**§ 6-304 MISDEMEANORS; TRESPASSING.**

(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 70-2103 RS Neb. to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed.

(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;

(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)(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. *(Ref. 28-520, 28-521 RS Neb.) (Amended by Ord. No. 23-01, 3/6/23)*

**§ 6-305 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.

**§ 6-306 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.)

**§ 6-307 MISDEMEANORS; DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.**

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

***ALCOHOLIC BEVERAGE.***

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

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

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

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

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



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

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

- (a) That contains any amount of alcoholic beverage; and
- (b)
  1. That is open or has a broken seal; or
  2. The contents of which are partially removed.

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

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

(C) Except as provided in section 53-186 RS Neb. or division (D) of this section, it is unlawful for any person to consume an alcoholic beverage:

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

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

- (1) The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and
- (2) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area. *(Ref. 60-6,211.08 RS Neb.) (Amended by Ord. Nos. 00-10, 6/5/00; 12-10, 3/5/12)*

**§ 6-308 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.

**§ 6-309 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.*)

**§ 6-310 MISDEMEANORS; CONCEALED WEAPONS.**

(1) (a) Except as otherwise provided in this section, any person who carries a weapon or weapons on or about his or her person such as a revolver, pistol, bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon.

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

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

**§ 6-311 MISDEMEANORS; SLINGSHOTS, AIR GUNS, BB GUNS.**

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

**§ 6-312 MISDEMEANORS; ASSAULTS.**

*(Repealed by Ord. No. 171, 10/6/80)*

**§ 6-313 MISDEMEANORS; PROVOKING ASSAULT.**

*(Repealed by Ord. No. 171, 10/6/80)*

**§ 6-314 MISDEMEANORS; MENACING THREATS.**

*(Repealed by Ord. No. 171, 10/6/80)*

**§ 6-315 MISDEMEANORS; ASSAULT AND BATTERY.**

*(Repealed by Ord. No. 171, 10/6/80)*

**§ 6-316 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.)

**§ 6-317 MISDEMEANORS; DISORDERLY CONDUCT.**

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

**§ 6-318 MISDEMEANORS; CRIMINAL MISCHIEF.**

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

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

(B) Criminal mischief is an offense:

- (1) If the actor intentionally or maliciously causes pecuniary loss of five hundred (\$500.00) dollars or more but less than five thousand (\$5,000.00) dollars; or

(2) If the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than five hundred (\$500.00) dollars or if his or her action results in no pecuniary loss. (*28-519 RS Neb.*) (*Ord. Nos. 16-08, 4/6/16; 17-15, 12/6/17*)

### **§ 6-319 MISDEMEANORS; LITTERING.**

(A) 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:

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

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

(B) 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.

(C) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering. (*Ref. 28-523 RS Neb.*) (*Amended by Ord. No. 95-15, 6/5/95*)

### **§ 6-320 MISDEMEANORS; PROHIBITED FENCES.**

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

### **§ 6-321 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.

### **§ 6-322 MISDEMEANORS; REMOVING DIRT.**

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

**§ 6-323 MISDEMEANORS; WEEDS, LITTER, STAGNANT WATER.**

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

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

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

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

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

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

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

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

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

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

**LITTER.** Includes but is not limited to:

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

**WEEDS.** Include, but are not limited to: bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*). (Ref. 17-563 RSNeb.) (Amended by Ord. Nos. 92-7, 6/1/92; 08-022, 8/4/08; 14-10, 1/6/14; 16-09, 4/6/16; 17-21, 12/6/17; 18-11, 3/7/18)

#### **§ 6-323.01 MISDEMEANORS; ABATEMENT PROCEDURE.**

(A) The owner or occupant of any real estate within the corporate limits or zoning jurisdiction of the Village shall keep such real estate free of nuisances. Except to the extent that conflicting procedures are otherwise provided, the procedures in this section shall apply to abatement of nuisances.

(B) Upon determination by the Board of Health or designated official that the owner or occupant of any such real estate has failed to keep the real estate free of nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the Governing Body and the manner in which it may be requested shall be given to the owner or owner's duly authorized agent and to the occupant, if any, by personal service or by 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 Village or by conspicuously posting the notice on the real estate upon which the nuisance is to be abated and removed. The notice shall describe the condition as found by the Board of Health or designated official and state that the condition has been declared a nuisance and must be remedied at once.

(C) If within five (5) days after receipt of such notice of publication or posting, whichever is applicable, the owner or occupant of the real estate does not request a hearing with the Village or fails to comply with the order to abate and remove the nuisance, the Village may have such work done.

(D) If within five (5) days after receipt of such notice of publication or posting, whichever is applicable, the owner or occupant requests in writing a hearing with the Governing Body, the Governing Body shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Governing Body to show cause why such condition should not be found to be a nuisance and remedied. The notice shall be given not less than seven (7) nor more than fourteen (14) days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Governing Body shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health or designated official. If after consideration of all the evidence, the Village Board finds that the condition is a nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order to abate and remove the nuisance, the Village Board may have such work done.

(E) 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 Village may either:

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

(2) Recover in a civil action the costs and expenses of the work upon the real estate and the adjoining streets and alleys.

*(Ord. No. 16-13, 4/6/16)*

### **§ 6-324 MISDEMEANORS; WEEDS, GRASSES, WORTHLESS VEGETATION; ABATEMENT COST.**

The cost and expenses levied and assessed for mowing and removal of weeds, grasses and/or worthless vegetation by the Village on lots found in violation of Section 6-323 of this Code shall be billed to the owner and/or occupant thereof at the rate of two hundred dollars (\$200.00) per hour with an additional administrative fee of fifty dollars (\$50.00). A minimum of one (1) hour shall be charged with any additional time billed in fifteen (15) minute increments. Any amounts due from the owner and/or occupant shall be billed and levied as set forth in Section 6-323 of this Code. *(Ord. No. 11-002, 5/2/11)*

### **§ 6-325 MISDEMEANORS; ABANDONED VEHICLES.**

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

#### ***ABANDONED VEHICLE.***

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

1. If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six (6) hours on any public property;
2. If left unattended for more than twenty-four (24) hours on any public property, except a portion thereof on which parking is legally permitted;
3. If left unattended for more than forty-eight (48) hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
4. If left unattended for more than seven (7) days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
5. If left for more than thirty (30) days in the custody of a village law enforcement agency after the agency has sent a letter to the last-registered owner and lienholder under division (D) of this section; or
6. If removed from private property by the village pursuant to a village ordinance or this code.

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

1. If left unattended for more than twenty-four (24) hours on any public property, except a portion thereof on which parking is legally permitted;
2. If left unattended for more than forty-eight (48) hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
3. If left unattended for more than seven (7) days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
4. If left for more than thirty (30) days in the custody of a village law enforcement agency after the agency has sent a letter to the last-registered owner and lienholder under division (D) of this section; or
5. If removed from private property by the village pursuant to a village ordinance or this code.

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

(d) No motor vehicle subject to forfeiture under 28-431 RS Neb. 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 (1) or more units that can be telescoped when towed and expanded later for additional capacity, or of two (2) or more units, separately towable but designed to be joined into one (1) integral unit, and shall include a manufactured home as defined in 71-4603 RS Neb. **MOBILE HOME** does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to 60-169 RS Neb.

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

**PUBLIC PROPERTY.** Any public right-of-way, street, highway, alley, or park or other state, county, or village-owned property.

(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 60-376 RS Neb. affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of five hundred dollars (\$500) or less, title shall immediately vest in the village. Any certificate of title issued under this division to the village shall be issued at no cost to the village.

(C) (1) Except for vehicles governed by division (B) of this section, the village 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 village shall notify the last-registered owner, if any, and any lienholder, if any, within fifteen (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 five (5) days from the date such notice was mailed; or

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

(3) If the agency described in division (C)(1)(a) or (b) of this section also notifies the village 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 village:

(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 (30) days after the date the notice is mailed if the village 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 village has determined that the vehicle should be retained for use, the village 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 village intends to retain the abandoned vehicle for its use and that title will vest in the village thirty (30) days after the publication.

(D) (1) If a village 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 fifteen (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 thirty (30) days the agency will dispose of the vehicle.

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

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

(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 60-1902 and 60-1903 RS Neb.

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

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

(4) For purposes of this section, a **TRESPASSING VEHICLE** is a vehicle that is parked without permission on private property that is not typically made available for public parking.

(F) If a state agency caused an abandoned vehicle described in division (a)5. or (b)4. in the definition of an abandoned vehicle in division (A) of this section to be removed from public property in this village, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in divisions (a)1. through (a)4. or (b)1. through (b)3. of the definition of an abandoned vehicle in division (A) of this section to be removed from public property in this village, the state agency shall deliver the vehicle to the village which shall have custody.

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

(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 village, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the village or its contractual agent, while in the possession of a private towing service, or as a result of any subsequent disposition.

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

(J) No person other than one authorized by the village 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.

(K) The last-registered owner of an abandoned vehicle shall be liable to the village for the costs of removal and storage of such vehicle.

(L) Any person violating the provisions of this section shall be guilty of an offense. (Ref. 60-1901 through 60-1903, 60-1903.01, 60-1903.02, 60-1904 through 60-1909, 60-1911 RS Neb.) (Ord. Nos. 15-05, 5/4/15; 19-01, 5/1/19) (Amended by Ord. No. 22-03, 5/4/22)

**§ 6-326 MISDEMEANORS; KEEPING OF UNREGISTERED, WRECKED OR JUNKED VEHICLES UNLAWFUL; EXCEPTIONS.**

(1) It shall be unlawful for any person in charge or control of any property within the city, whether as owner, tenant, occupant, or otherwise, to allow any nonoperating, wrecked, junked or partially dismantled vehicle to remain on such property longer than thirty days. It shall be unlawful for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, to allow any vehicle which has been unregistered for more than thirty 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, when necessary to the lawful operation of such business enterprise, a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, or a vehicle on the premises of a person who has obtained a hobbyist permit for restoration of said vehicle.

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

(a) Application for a hobbyist permit shall be filed in writing with the Village Clerk on a form provided by the Village 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 fee for such hobbyist permit shall be \$50.00 per vehicle.

(d) All such permits shall expire on the 180th day following the date of issuance thereof.

(3) VIOLATIONS; PENALTY. Whenever the doing of any act or the omission to do any act constitutes a breach of any section hereof shall be punishable by a fine of not more than one hundred dollars (\$100.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. *(Amended by Ord. No. 96-20, 10/7/96)*

**§ 6-327 MISDEMEANORS; VIOLENCE ON A SERVICE DOG; INTERFERENCE WITH A SERVICE DOG.**

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

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

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

(4) For purposes of this section:

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

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

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

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

(e) Visually impaired person means a person having a visual acuity of 20/200 or less in the person's better eye with correction or having a limitation to the person's field of vision so that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees. (Ref. 28-1009.01 RS Neb.) (Ord. No. 98-24, 8/3/98)

**§ 6-328 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. No. 98-25, 8/3/98*)

**§ 6-329 MISDEMEANORS; UNDER THE 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. No. 2002-22, 7/1/02*)

**§ 6-330 FIREWORKS; HOURS OF SALE.**

(A) Conditioned upon payment of the occupation tax required to be paid by § 10-901 of the Village Code, fireworks permitted within the Municipality may be sold at retail between June twenty-seventh (27th) and July fifth (5th) of each year, during the following times:

June 24th through July 3 - eight (8:00) o'clock a.m. to eleven (11:00) o'clock p.m.

July 4 - eight (8:00) o'clock a.m. to midnight.

(*Ord. 14-12, 10/6/14*)

## § 6-331 FIREWORKS; DISCHARGE.

(A) It shall be unlawful for any person to discharge, fire, launch or throw any fireworks or an object, which is lighted to explode or which explodes upon contact with another object:

- (1) From or onto any motor vehicle;
- (2) Onto any street, highway or sidewalk;
- (3) During any pyrotechnics display authority and when the special permit authorizes, permitted fireworks shall be exploded in pyrotechnics display except by personnel authorized;
- (4) At or near any persons;
- (5) Into or upon any building;
- (6) Into or at any group of persons; or
- (7) At or upon the premises of another person;

(B) The discharge or exploding of fireworks within the Municipality shall be permitted only on the following dates and during the following hours:

(1) June 24th through July 3rd - eight (8:00) o'clock a.m. to eleven (11:00) o'clock p.m.  
(2) July 4 - eight (8:00) o'clock a.m. to midnight.

(Ord. No. 14-12, 10/6/14)

**§ 6-332 USE OF TOBACCO BY PERSONS UNDER THE AGE OF TWENTY-ONE (21).**

Whoever, being a minor under the age of twenty-one (21) years, shall smoke cigarettes or cigars, use electronic nicotine delivery systems or alternative nicotine products, or use tobacco in any form whatever, in this Village, shall be guilty of an offense. Any person charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, electronic nicotine delivery systems, alternative nicotine products, or tobacco. (Ref. 28-1418 RS Neb.) (Ord. Nos. 15-07, 5/4/15; 20-01, 1/8/20; 21-01, 2/3/21)

**§ 6-333 SALE OF TOBACCO TO PERSONS UNDER THE AGE OF TWENTY-ONE (21).**

(A) Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigars, cigarettes or cigarette paper, electronic nicotine delivery systems, or alternative nicotine products, to any person under twenty-one (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) of this section, a person who is at least fifteen (15) years of age but under twenty-one (21) years of age may assist a peace officer in determining compliance with such section 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 nineteen (19) 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 twenty-one (21) years acting in accordance with and under the authority of this section shall not be in violation of section 28-1427 RS Neb. (*Ref. 28-1419 RS Neb.*) (*Ord. Nos. 15-07, 5/4/15; 20-01, 1/8/20; 21-01, 2/3/21*)

**§ 6-334 MISREPRESENTATION BY PERSON UNDER THE AGE OF TWENTY-ONE (21) TO OBTAIN TOBACCO.**

Except as provided in § 6-333(B), any person under the age of twenty-one (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 twenty-one (21) years or over, is guilty of an offense. (*Ref. 28-1427 RS Neb.*) (*Ord. Nos. 15-07, 5/4/15; 20-01, 1/8/20; 21-01, 2/3/21*)

**§ 6-335 PROSTITUTION.**

(A) Except as provided in division (C) of this section, any person who performs, offers, or agrees to perform any act of sexual contact or sexual penetration, as those terms are defined in section 28-318 RS Neb., with any person not his or her spouse, in exchange for money or other thing of value, commits the offense of prostitution.

(B) It is an affirmative defense to prosecution under this section that such person was a trafficking victim as defined in section 28-830 RS Neb.

(C) If the law enforcement officer determines, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of division (A) of this section is a person under eighteen (18) years of age, such person shall be immune from prosecution for a prostitution offense under this section and shall be subject to temporary custody under section 43-248 RS Neb. and further disposition under the Nebraska Juvenile Code. A law enforcement officer who takes a person under eighteen (18) years of age into custody under this section shall immediately report an allegation of a violation of section RS 28-831 RS Neb. to the Department of Health and Human Services which shall commence an investigation within twenty-four (24) hours under the Child Protection and Family Safety Act. (*Ref. 28-801 RS Neb.*) (*Ord. No. 15-09, 5/4/15*) Penalty, see § 10.99

**§ 6-336 GAMBLING.**

(A) For the purpose of this section, the definitions found in 28-1101 RS Neb. 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 (1) day; or

(c) Betting something of value in an amount of five hundred dollars (\$500) or more with one (1) or more persons in one (1) day; or

(2) Participates in unlawful gambling as a player by betting less than five hundred dollars (\$500) in any one (1) day.

(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.

(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.

(E) Proof of possession of any gambling device shall be *prima facie* evidence of possession thereof with knowledge of its contents and character.

(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 village and is not in violation of the laws of the jurisdiction in which it is conducted.

(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 28-833 RS Neb. 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 28-1601 RS Neb., that any or all such property was derived from, used, or intended to be used to facilitate a violation of this section.

(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.

(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;

(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 9-701 RS Neb.; 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 twenty-one (21) years of age or older within licensed racetrack enclosures as provided in the Nebraska Racetrack Gaming Act.

(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. *(Ref. 28-1102 through 28-1104, 28-1107 through 28-1113, 28-1117 RS Neb.) (Ord. Nos. 17-17, 12/6/17; 20-01, 1/8/20) (Amended by Ord. No. 22-03, 5/4/22)*

**§ 6-337 PUBLIC INDECENCY.**

(A) A person, eighteen (18) years of age or older, commits the offense of public indecency if such person performs or procures, or assists any other person to perform, in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

- (1) An act of sexual penetration as defined in section 28-318 RS Neb.;
- (2) An exposure of the genitals of the body done with intent to affront or alarm any person; or
- (3) A lewd fondling or caressing of the body of another person of the same or opposite sex.

(B) It shall not be a violation of this section for an individual to breast-feed a child in a public place. *(Ref. 28-806, RS Neb.) (Ord. No. 20-01, 1/8/20)*



## 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 (\$500.00) dollars. 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. 17-207, 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 00-15, 6/5/00*)

### § 6-402 ABATEMENT OF NUISANCE.

*(Repealed by Ord. No. 00-15, 6/5/00)*

