

## **CHAPTER 6: POLICE REGULATIONS**

Article

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## ARTICLE 1: DOGS AND CATS

### § 6-101 DOGS; LICENSE.

(A) Any person who shall own, keep or harbor a dog over the age of three months within the Municipality shall within thirty (30) days after acquisition of the said dog, acquire a license for each such dog annually by or before the first day of May of each year. Licenses shall be issued by the City Clerk upon payment of a license tax in the amount established by the governing body, plus the one dollar and twenty-five cents (\$1.25) fee required under section 54-603(3) RS Neb. The said tax shall be delinquent from and after May 10; provided the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within thirty (30) days from the date the dog is brought into the City. All dogs owned or harbored in the Municipality on which taxes are delinquent may be put to death in a humane manner at the order of the governing body. Licenses shall be issued by the City Clerk upon the payment of the license fee of five dollars (\$5.00) for each dog. Said license shall not be transferable and no refund will be allowed in case of the death, sale or other disposition of the licensed dog. The owner shall state at the time the application is made upon printed forms provided for such person, the owner's name and address and the name, breed, color and sex of each dog owned and kept by him or her. A certificate that the dog has had a rabies shot effective for the ensuing year of the license shall be presented when the license is applied for and no license or tax shall be issued until the certificate is shown.

(B) In addition to the rabies vaccination certificate, the owner shall bring a photograph of the dog to the City office at the time of initial licensing to be kept on file in the City office to aid in the identification of dogs picked up by animal control authorities.

(C) Each dog owner as a requirement of obtaining a license shall be required to provide liability insurance in an amount of not less than three hundred thousand dollars (\$300,000.00) which policy shall insure third parties against personal injuries and property damages caused by said dog. At the time of licensing a certificate of insurance shall be provided to the City from an insurance company licensed to do business in Nebraska. The City shall be notified in the event of cancellation of said insurance policy by the owner of the licensed dog. In the event the policy of insurance is cancelled and no replacement policy is issued within three (3) days of cancellation, the license shall be revoked, the dog shall be deemed a nuisance and removed from the City limits by the dog owner without further notice.

(D) This section shall apply to all new dog licenses issued after the passage of this section. Dog licenses currently in effect shall be subject to the new requirements provided herein at the time the license is renewed. *(Amended by Ord. Nos. 591, 9/22/92; 998, 2/11/08; 1035, 9/12/11; 1150, 5/22/17)*



**§ 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. 781, 9/22/98*)

**§ 6-102 DOGS; LICENSE TAGS.**

Upon the payment of the license fee, the Municipal Clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the 30th day of April following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and may charge and collect a fee of five dollars (\$5.00) for each duplicate or new tag so issued. All license fees and collections shall immediately be credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design with a different appearance each year. (*Ref. 17-526, 54-603 RS Neb.*) (*Amended by Ord. No. 591, 9/22/92*)

**§ 6-103 DOGS; WRONGFUL LICENSING.**

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

**§ 6-104 DOGS; OWNER DEFINED.**

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

**§ 6-105 DOGS; PROCLAMATION.**

It shall be the duty of the Governing Body whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or

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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; RUNNING AT LARGE PROHIBITED.**

(1) It shall be unlawful for any owner, keeper or harborer of any dog to permit or allow such dog to run at large.

(2) For the purpose of this section to ***RUN AT LARGE*** shall mean to permit, either intentionally or unintentionally a dog to be present upon the streets, sidewalks and alleys of the City and any other public or private property not owned or occupied by the owner, keeper or harborer of said dog. A dog shall not be considered to ***RUN AT LARGE*** if the dog is secured by a leash and is under the immediate supervision of a person able to keep the dog under reasonable control.







(3) All dogs found running at large are hereby declared a public nuisance and shall be impounded and disposed of as provided for in section 6-116.

(4) Any owner or keeper of a dog who shall permit the same to run at large shall be fined as follows:

..... (a) For

(b) For the second offense within one (1) year from the date of the

..... first

(c) For the third and subsequent offense within one (1) year from the

..... date

(5) (a) The owner of any dog impounded pursuant to section 6-116 shall pay the following fees to the City prior to release of the animal:

..... 1.

2. For the second offense within one (1) year from the date of the

.....

3. For the third and subsequent offense within one (1) year from the

.....

(b) The above referenced fees shall be double of the said amount in the event the dog is not currently licensed. (Amended by Ord. Nos. 534, 1/9/90; 999, 2/11/08; 1113, 3/28/16)

**§ 6-107 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. 17-526 RS Neb.)

**§ 6-108 DOGS; VICIOUS.**

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



**§ 6-109 DOGS; INTERFERENCE WITH POLICE.**

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

**§ 6-110 DOGS; KILLING AND POISONING.**

It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to any dog. *(Ref. 28-1002 RS Neb.)*

**§ 6-111 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; provided, that the provisions of this section shall not be construed to apply to the Municipal Dog Pound. *(Ref. 17-526 RS Neb.)*

**§ 6-112 DOGS; FEMALE IN SEASON.**

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the Municipality while in season. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. *(Ref. 17-526 RS Neb.)*

**§ 6-113 DOGS; FIGHTING.**

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



**§ 6-114 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 property so injured. *(Ref. 54-601, 54-602 RS Neb.)*

**§ 6-115 DOGS; REMOVAL OF TAGS.**

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

**§ 6-116 DOGS AND CATS; IMPOUNDING.**

It shall be the duty of the Animal Control Officer or any other officer, agent or employee of the City to capture, secure and remove in a humane manner any dog or cat violating any of the provisions of this Article. Any animal so impounded shall be immediately transported to a veterinarian facility licensed by the State of Nebraska. Notice of impoundment of all animals shall be posted at the office of the Municipal Clerk as soon as practical, but no later than twenty-four (24) hours after impoundment. The owner shall then be required to contact the veterinarian facility for release of the animal so impounded. Before release of the animal, the owner shall pay all veterinary charges, including but not limited to; boarding fees, and rabies shots; licensing fee to the City, should the animal not be currently licensed and the appropriate running at large fee pursuant to section 6-106(4). The Municipality shall acquire legal title to any dog or cat so impounded for a period longer than seventy-two (72) hours after giving public notice of the impoundment. All dogs and cats shall be destroyed by the licensed veterinarian that if not claimed after seventy-two (72) hours of the public notice. All fees provided herein shall be paid within seventy-two (72) hours of the initial public notice of impoundment. *(Ref. 17-548, 71-4408 RS Neb.) (Amended by Ord. Nos. 295, 10/25/77; 370, 10/13/81; 591, 9/22/92; 1000, 2/11/08)*

**§ 6-117 DOGS AND CATS; ANIMAL SHELTER.**

The Animal Shelter shall be safe, suitable, and conveniently located for the impounding, keeping, and destruction of dogs and cats. The said shelter shall be sanitary, ventilated, and lighted. *(Ref. 17-548 RS Neb.) (Ord. No. 591, 9/22/92)*



**§ 6-118 DOGS; RABIES CONTROL.**

(A) (1) 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:

(a) The animal is suspected of having rabies, regardless of the species and whether or not the animal has been vaccinated;

(b) 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

(c) 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.

(2) 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.

(B) (1) Except as provided in division (B)(2) 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 sections 71-4402, 71-4404, 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.

(2) 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 (B)(1) 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.

(C) 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.*)





**§ 6-119 DOGS; OFFICER'S COMPENSATION.**

For destroying and burying dogs under the provisions of this Article, the official appointed to destroy said dogs shall be paid, in addition to his regular salary, the sum of five dollars (\$5.00) for each dog so destroyed and buried. *(Ref. 17-526 RS Neb.)*

**§ 6-120 DOGS; LEGAL DESTRUCTION.**

Any person who owns, harbors, or in any way sustains a dog that he wishes to be destroyed may place the same in the Animal Shelter to be destroyed and disposed of according to the provisions herein. *(Ref. 17-526 RS Neb.)*

**§ 6-121 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 City to enforce the animal control laws of the City.

**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** shall mean:

- (1) Any dog that, according to the records of an animal control authority:
  - a. Has killed a human being;
  - b. Has inflicted injury on a human being that requires medical treatment;
  - c. Has killed a domestic animal without provocation; or
  - d. 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 such dog again 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.
- (2) 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.

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(3) 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, was committing or attempting to commit a crime.

(4) 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** shall mean treatment administered by a physician or other licensed health care professional that results in sutures or surgery or treatment for one (1) or more broken bones.

**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:

- (1) Any dog that when unprovoked;
  - (a) Inflicts an injury on a human being that does not require medical treatment; or
  - (b) Injures a domestic animal; or;
  - (c) Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or;
- (2) 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; and (*Ref. 54-617 RS Neb.*) (*Ord. No. 529, 11/14/89*)

### § 6-122 DANGEROUS DOGS; RESTRAINED.

(A) 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.

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(B) 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.

(C) Except as provided in division (D) 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.

(D) 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 division shall permit the rescindment of the declaration of dangerous dog. (*Ref. 54-618 RS Neb.*) (*Ord. No. 529, 11/14/89*)

**§ 6-123 DANGEROUS DOGS; CONFINED.**

(A) 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.

(B) 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 (1) foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least ten 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. 55-619 RS Neb.*) (*Ord. No. 529, 11/14/89*)

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**§ 6-124 DANGEROUS DOGS; FAILURE TO COMPLY.**

(A) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this section. 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 section. *(Ref. 54-620 RS Neb.)*

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

(C) (1) 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.

(2) It is a defense to a violation of division (C)(1) 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.

(D) *Effect of prior conviction.* If a dangerous dog of an owner with a prior conviction under this section 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. 54-622.01 RS Neb.) (Ord. No. 529, 11/14/89)*

**§ 6-125 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. 529, 11/14/89)*

**§ 6-126 CATS; LICENSE.**

Any person who shall own, keep or harbor a cat over the age of three (3) months within the Municipality shall within thirty (30) days after acquisition of the said cat acquire a license for each such cat annually by or before May 1 of each year. The said tax shall be delinquent from and after May 10; provided the possessor of any cat brought into or harbored within the corporate limits subsequent to May 1 of any year shall be liable for the payment of the cat tax levied herein and such cat tax shall be delinquent if not paid by February 1. All cats owned or harbored in the Municipality on which taxes are delinquent may be put to death in a humane manner at the order of the Governing Body. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of five dollars (\$5.00) for each cat. After May 1, of each year the fees for licensing shall be deemed delinquent and the fees paid shall be





increased by ten dollars (\$10.00) each. Said license shall not be transferable and no refund will be allowed in the case of the death, sale or other disposition of the licensed cat. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his name and address and the name, breed, color and sex of each cat owned and kept by him. A certificate that the cat has had a rabies shot effective for the ensuing year of the license shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. *(Ref. 17-526, 54-603, 71-4412 RS Neb.) (Ord. No. 590, 9/22/92) (Amended by Ord. No. 997, 2/11/08)*

**§ 6-127 CATS; LICENSE TAGS.**

Upon the payment of the license fee, the Municipal Clerk shall issue to the owner of a cat a license certificate and a metallic tag for each cat so licensed. The metallic tags shall be properly attached to the collar or harness of all cats so licensed and shall entitle the owner to keep or harbor the said cat until the 30th day of April following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and may charge and collect the fee of \$5.00 for each duplicate or new tag so issued. All license fees and collections shall immediately be credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design with a different appearance each year. *(Ref. 17-526, 54-603 RS Neb.) (Ord. No. 590, 9/22/92)*

**§ 6-128 CATS; WRONGFUL LICENSING.**

It shall be unlawful for the owner, keeper, or harborer of any cat to permit or allow such cat to wear any license, metallic tag or other Municipal identification than that issued by the Municipal Clerk for cats, nor shall the owner, keeper, or harborer wrongfully and knowingly license an unspayed female cat with a license prescribed for a male or spayed female cat. *(Ref. 17-526 RS Neb.) (Ord. No. 590, 9/22/92)*

**§ 6-129 CATS; OWNER DEFINED.**

Any person who shall harbor or permit any cat to be for ten days or more in or about his or her house, store, enclosure, or to remain to be fed, shall be deemed the owner and possessor of such cat and shall be deemed to be liable for all penalties herein prescribed. *(Ref. 54-606, 71-4401 RS Neb.) (Ord. No. 590, 9/22/92)*

**§ 6-130 CATS; RUNNING AT LARGE PROHIBITED.**

(1) It shall be unlawful for any owner, keeper or harborer of any cat to permit or allow such cat to run at large.



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(2) For the purpose of this section to "run at large" shall mean to permit, either intentionally or unintentionally a cat to be present upon the streets, sidewalks and alleys of the City and any other public or private property not owned or occupied by the owner, keeper or harbinger of said cat. A cat shall not be considered to "run at large" if the cat is secured by a leash and is under the immediate supervision of a person able to keep the cat under reasonable control.

(3) All cats found running at large are hereby declared a public nuisance and shall be impounded and disposed of as provided for in section 6-116 by the animal control officer.  
(*Ord. No. 590, 9/22/92*)

**§ 6-131 MAXIMUM NUMBER OF DOGS AND CATS.**

(1) It shall be unlawful for the owner or occupant of any residential real estate within the City of Stromsburg to own, harbor or permit more than four (4) dogs or more than four (4) cats or more than a total of four (4) dogs or cats combined on or about his/her premises.

(2) Each day that the owner or occupant of the premises allows more than four (4) dogs or more than four (4) cats or more than four (4) in combination of dogs or cats to remain in, on or about his or her premises shall be guilty of a separate and distinct offense. (*Ord. No. 1134, 5/8/17*)



## **ARTICLE 2: ANIMALS GENERALLY**

### **§ 6-201 ANIMALS; RUNNING AT LARGE.**

It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another. *(Ref. 17-526, 17-547 RS Neb)*

### **§ 6-202 ANIMALS; BANNED FROM MUNICIPALITY.**

It shall be unlawful for any person to keep or maintain, within the corporate limits, except in zoning districts where such uses are permitted, any horse, mule, sheep, hogs, cow, goat, poultry, chickens, turkeys, geese or other livestock except such livestock as are within the said limits temporarily for exhibition purposes. Nothing herein shall apply to the loading and unloading of livestock from a railroad station, as long as such loading and unloading is not a nuisance; provided also that nothing herein shall be construed to permit, or sanction a commercial feed lot. *(Ref. 17-123 RS Neb) (Amended by Ord. No. 791, 4/13/99)*

### **§ 6-203 ANIMALS; UNUSUAL ANIMALS PROHIBITED.**

(a) It shall be unlawful for any person or persons to own, keep or harbor any unusual animal within the corporate limits of the City of Stromsburg, Nebraska, except that this section shall not be construed to prohibit a public zoo, circus, humane society, or carnival from displaying unusual animals as exhibits or to prohibit any wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission from rehabilitating or sheltering unusual animals.

(b) It shall be unlawful for any person or persons to sell, give away, transfer or import into the City of Stromsburg, Nebraska any unusual animal as defined in this section, excluding a public zoo from doing business with another public zoo.

(c) In the event the Chief of Police determines an unusual animal is being owned, kept or harbored by any person in violation of this section, the Chief of Police may have such person prosecuted for such violation and shall order such person to remove said unusual animal from the City of Stromsburg, Nebraska, or destroy it. Such order shall be contained in a written notice to remove or destroy said unusual animal within ten (10) days and shall be delivered in person or by certified mail, return receipt requested. If the owner or person keeping or harboring such unusual animal shall have failed to remove

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or destroy such unusual animal after the expiration of ten (10) days from the receipt of said notice and no appeal is taken, the Chief of Police shall have such unusual animal destroyed.

(d) For purposes of this section the following definitions apply:

(1) Unusual animal shall mean any poisonous or potentially dangerous animal not normally considered domesticated, and shall include animals prohibited by the City of Stromsburg, State of Nebraska, or federal requirements, and also:

(A) Class mammalia; order carnivora, family felidae (such as lions, tigers, jaguars, leopards, bobcats, and cougars), except commonly accepted domesticated cats and hybrids involving the same; family canidae (such as wolves, coyotes and fox); family mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink and badgers), except ferrets; family procyonidae (such as raccoon); family ursidae (such as bears); order primata (such as monkeys and chimpanzees); and order chiroptera (such as bats).

(B) Poisonous reptiles, cobras, and their allies (elapidae hydrophiidae); vipers and their allies (crotiladae, viperidae); boonslang and kirkland's tree snake; and gila monster (heleodermatidae).

(C) Non-poisonous reptiles or snakes that will grow to more than six (6) feet in length at maturity.

(2) Domesticated shall mean a tame animal that is subject to the dominion and control of an owner or person keeping or harboring said animal, and accustomed to living in or near human habitation without requiring extraordinary restraint for the protection of humans or unreasonably disturbing such human habitation. *(Amended by Ord. No. 792, 5/11/99)*

**§ 6-204 ANIMALS; CRUELTY.**

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

**§ 6-205 ANIMALS; KILLING AND INJURING.**

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

**§ 6-206 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.

**§ 6-207 ANIMALS; STALLIONS AND JACKS.**

It shall be unlawful for the keeper or harbinger of any stallion, jack, boar, or bull to be stabled, penned, or kept with the female of its kind, except in some enclosed place entirely out of public view.

**§ 6-208 ANIMALS; PITTING.**

*(Repealed by Ord. No. 1158, 6/12/17)*

**§ 6-209 ANIMALS; PITTING; PROHIBITED.**

*Editor's Note:* See § 6-208.

**§ 6-210 ANIMALS; PITTING; SPECTATORS PROHIBITED.**

*Editor's Note:* See § 6-208.

**§ 6-211 ANIMALS; ABANDONMENT, NEGLECT, AND MISTREATMENT; DEFINITIONS.**

For the purpose of §§ 6-211 through 6-213, 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.



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***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 minimal amount of pain and suffering.

***LAW ENFORCEMENT OFFICER.*** Any member of the Nebraska State Patrol, any county or deputy sheriff, an member of the police force of the City or any other city or village, or any other public official authorized by the City or any other city or village to enforce state or local animal control laws, rules, regulations, or ordinances. ***LAW ENFORCEMENT OFFICER*** also includes a special investigator appointed as a deputy state sheriff as authorized pursuant to section 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.*) (*Ord. No. 553, 2/12/91*) (*Amended by Ord. No. 1166, 6/12/17*)

**§ 6-212 ANIMALS; ABANDONMENT, NEGLECT, AND MISTREATMENT; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY.**

(A) 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.

(B) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner or custodian as prescribed in sections 29-442 to 29-429 RS Neb.

(C) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (*Ref. 28-1012 RS Neb.*) (*Ord. No. 553, 2/12/91*) (*Amended by Ord. No. 1166, 6/12/17*)



**§ 6-213 ANIMALS; ABANDONMENT, NEGLECT, AND MISTREATMENT; PENALTY.**

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

(B) A person commits harassment of police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. (*Ref. 28-1009 RS Neb.*) (*Ord. No. 553, 2/12/91*) (*Amended by Ord. No. 1166, 6/12/17*)

**§ 6-214 ANIMALS; EQUINE, BOVINE; PROHIBITED ACTS.**

(A) (1) 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.

(2) 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.

(B) (1) 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.

(2) 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. 28-1009.02, 28-1009.03, 28-1013.01, 28-1013.02 RS Neb.*)

**ARTICLE 3: FOWLS**

**§ 6-301 FOWLS; RUNNING AT LARGE.**

It shall be unlawful for any person to allow any animals prohibited in § 6-202 from running at large within corporate limits or the one (1)-mile zoning jurisdiction. *(Amended by Ord. No. 1176, 7/20/17)*

**§ 6-302 FOWLS; CRATED.**

It shall be unlawful for any person to permit any poultry to be crated for any period of time longer than eight (8) hours unless the said poultry has been supplied with water and feed, nor shall any person permit any crated poultry to be exposed to the sun, extreme heat or cold except that which is being actively transported within the corporate limits.

**§ 6-303 FOWLS; COCK FIGHTING.**

It shall be unlawful for any person, by agreement or otherwise, to set game cocks, game roosters, or game fowls of any kind to fighting, or by any gesture or word to encourage the same to do so.





## ARTICLE 4: MISCELLANEOUS MISDEMEANORS

### § 6-401 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 a person or property;

or

(3) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

(B) Criminal mischief is an offense:

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

(2) If the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than five hundred dollars (\$500.00) or if his or her action results in no pecuniary loss. (*Ref. 28-519 RS Neb.*) (*Amended by Ord. No. 1167, 6/12/17*)

### § 6-402 CRIMINAL TRESPASS.

(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 section 70-2103 RS Neb. to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed. (*Ref. 28-520 RS Neb.*)





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

(a) Actual communication to the actor; or

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

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

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

(3) 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. 28-521 RS Neb.*)

#### **§ 6-403 ELECTRICAL INTERFERENCE.**

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

***Statutory reference:***

*Provisions on nuisances, see sections 18-1720 and 28-1321 RS Neb.*

#### **§ 6-404 INJURY TO TREES.**

It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade, or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council to do so, and the written permit of the City Council in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

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**§ 6-405 POSTING.**

It shall be unlawful for any person to use the streets, sidewalks, or public grounds of the City for signs, signposts, or the posting of handbills or advertisements without written permission of the City Council.

**§ 6-406 DISORDERLY CONDUCT.**

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the City by clamor or noise, intoxication, drunkenness, fighting, or using obscene or profane language in the streets or other public places or otherwise violating the public peace by indecent or disorderly conduct or lewd or lascivious behavior.

***Statutory reference:***

*Authority to prevent disorderly conduct, see section 17-129 RS Neb.*

*Authority to regulate noise, riots, and routs, see section 17-556 RS Neb.*

**§ 6-407 STREET GAMES.**

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

***Statutory reference:***

*Additional authority, see sections 17-555 and 17-557 RS Neb.*

*Authority to regulate excavation and obstruction of streets, see section 17-142 RS Neb.*

**§ 6-408 OBSTRUCTION OF PUBLIC WAYS.**

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

***Statutory reference:***

*Additional authority, see sections 17-555 and 17-557 RS Neb.*

*Authority to regulate excavation and obstruction of streets, see section 17-142 RS Neb.*

*Penalties for injuring or obstructing roads, see sections 39-301 and 39-302 RS Neb.*



**§ 6-409 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.

***Statutory reference:***

*Authority to abate nuisances, see section 17-555 RS Neb.*

*Authority to prevent water obstruction, see section 17-920 RS Neb.*

**§ 6-410 DISTURBING THE PEACE.**

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family, or neighborhood. *(Ref. 28-1322 RS Neb.)*

**§ 6-411 IMPERSONATING A PUBLIC SERVANT.**

It shall be unlawful for any person falsely to pretend to be a public servant other than a peace officer and perform any act in that pretended capacity. It is no defense that the office the actor pretended to hold did not in fact exist. *(Ref. 28-609 RS Neb.)*

**§ 6-412 IMPERSONATING A PEACE OFFICER.**

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity. *(Ref. 28-610 RS Neb.)*

**§ 6-413 REFUSING TO AID A PEACE OFFICER.**

It shall be unlawful for any person, upon a request by a person known to him or her to be a peace officer, unreasonably to refuse or fail to aid the peace officer in:

(A) Apprehending any person charged with or convicted of any offense against any of the laws of this State or City; or

(B) Securing the offender when apprehended; or

(C) Conveying the offender to the jail of the county or this City. *(Ref. 28-903 RS Neb.)*

**§ 6-414 RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON.**

(A) It shall be unlawful for any person, without the use of a deadly or dangerous weapon, while intentionally preventing or attempting to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, to:

- (1) Use or threaten to use physical force or violence against the peace officer or another;
- (2) Use any other means which creates a substantial risk of causing physical injury to the peace officer or another; or
- (3) Employ means requiring substantial force to overcome resistance to effecting the arrest.

(B) It is an affirmative defense to prosecution under this section if the peace officer involved was out of uniform and did not identify himself or herself as a peace officer by showing his or her credentials to the person whose arrest is attempted. (*Ref. 28-904 RS Neb.*)

**§ 6-415 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 city or 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.*)

**§ 6-416 INTERFERING WITH FIREFIGHTER.**

A person commits the offense of interfering with a firefighter if at any time and place where any firefighter is discharging or attempting to discharge any official duties, the person willfully:

- (A) Resists or interferes with the lawful efforts of any firefighter in the discharge or attempt to discharge an official duty;





(B) Disobeys the lawful orders given by any firefighter while performing his or her duties;

(C) Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

(D) Forbids or prevents others from assisting or extinguishing a fire, or exhorts another person, as to whom he or she has no legal right or obligation to protect or control, not to assist in extinguishing a fire. (*Ref. 28-908 RS Neb.*)

#### **§ 6-417 FALSE REPORTING.**

(A) 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 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 a 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; or

(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 the investigation.

(B) A person who violates this section commits the offense of false reporting. (*Ref. 28-907 RS Neb.*)

#### **§ 6-418 MAINTAINING A NUISANCE.**

(A) A person commits the offense of maintaining a nuisance if he or she erects, keeps up or continues, and maintains any nuisance to the injury of any part of the citizens of this City.



(B) The erecting, continuing, using, or maintaining of any building, structure, or other place for the exercise of any trade, employment, manufacture, or other business which, by occasioning noxious exhalations, noisome or offensive smells, becomes injurious and dangerous to the health, comfort, or property of individuals or the public; the obstructing or impeding, without legal authority, of the passage of any navigable river, harbor, or collection of water; or the corrupting or rendering unwholesome or impure of any watercourse, stream, or water; or unlawfully diverting any such watercourse from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, building, structures or otherwise of any of the public highways or streets or alleys of the city, shall be deemed nuisances.

(C) A person guilty of erecting, continuing, using, maintaining, or causing any such nuisance shall be guilty of a violation of this section and in every such case the offense shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby.

(D) The court, in case of conviction of such offense, shall order every such nuisance to be abated or removed. (*Ref. 28-1321 RS Neb.*)

#### **§ 6-419 APPLIANCES IN YARD.**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless the person first removes all doors and makes the same reasonably safe.

***Statutory reference:***

*Authority to prohibit nuisances within zoning jurisdiction, see section RS 18-1720 RS Neb.*

#### **§ 6-420 PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK, OR STREAM.**

Whoever shall put any dead animal, carcass or part thereof, or other filthy substance into any well, or into any spring, brook, or branch of running water, of which use is made for domestic purposes, shall be guilty of an offense. (*Ref. 28-1304 RS Neb.*)

#### **§ 6-421 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 the fence abuts a public sidewalk, street, or alley.

***Statutory reference:***

*Restrictions on barbed wire fences, see section 39-307 RS Neb.*



**§ 6-422 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) The property is an area designated by law for the disposal of that type of material and the person is authorized by the proper public authority to so use the property; or

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

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

**LITTER.** Includes 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.** 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 the motor vehicle or watercraft commits the offense of littering. (*Ref. 28-523 RS Neb.*)

**§ 6-423 RAISING OR PRODUCING STAGNANT WATER.**

Whoever shall build, erect, continue, or keep up any dam or other obstruction in any river or stream of water in the City and thereby raise an artificial pond, or produce stagnant waters, which shall be manifestly injurious to the public health and safety shall be guilty of an offense and the court shall, moreover, order every such nuisance to be abated or removed. (*Ref. 28-1303 RS Neb.*)

**§ 6-424 USE OF TOBACCO BY MINORS.**

Whoever, being a minor under the age of eighteen (18) years, shall smoke cigarettes or cigars, or use tobacco in any form whatever in this City, shall be guilty of an offense. Any minor so charged with the violation of this section may be free from prosecution when he or she shall have furnished evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, or tobacco. (*Ref. 28-1418 RS Neb.*)



**§ 6-425 SALE OF TOBACCO TO MINORS.**

Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, to any minor under eighteen (18) years of age shall be guilty of an offense. (*Ref. 28-1419 RS Neb.*)

**§ 6-426 MISREPRESENTATION BY MINOR TO OBTAIN TOBACCO.**

Any person under the age of eighteen (18) years who shall obtain cigars, tobacco, cigarettes, or cigarette material from a licensee hereunder by representing that he or she is of the age of eighteen (18) years or over, shall be guilty of an offense. (*Ref. 28-1427 RS Neb.*)

**§ 6-427 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL.**

No minor, as defined by section 53-103.23 RS Neb., shall obtain, or attempt to obtain, alcoholic liquor by misrepresentation of age, or by any other method, in any tavern or other place where alcoholic liquor is sold. (*Ref. 53-180.01 RS Neb.*)

***Statutory reference:***

*Penalty for manufacturing false identification intended for minors, see section 53-180.05 RS Neb.*

**§ 6-428 MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR.**

(A) For purposes of this section, the definitions found in section 53-103.01 through 53-103.42 RS Neb. shall apply, including, but not limited to, the definitions of the terms **ALCOHOLIC LIQUOR**, **CONSUME**, **MINOR**, **SALE**, and **TO SELL**.

(B) Except as otherwise provided in § 10-305, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the state or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence.

(C) It shall be unlawful for any person under twenty-one (21) years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. (*Ref. 53-180.02 RS Neb.*)

***Statutory reference:***

*Minor Alcoholic Liquor Liability Act, see sections 53-401 through 53-409 RS Neb.*

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**§ 6-429 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.**

(A) 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 City.

(B) Except as provided in § 10-303, it is unlawful for any person to consume an alcoholic beverage:

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

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

(C) 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.

***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

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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. (Ref. 60-6,211.08 RS Neb.)

**§ 6-429.01 DESIGNATION OF CERTAIN PUBLIC PROPERTY FOR CONSUMPTION OF ALCOHOLIC LIQUOR.**

The City authorizes the consumption of alcoholic liquor upon the following described property owned by the City:

(A) City of Stromsburg Municipal Fire Hall;

(B) Viking Center;

(C) The sheltered picnic area in the camping portion of Buckley Park and the west sheltered picnic area in Buckley Park. Neither of these picnic areas shall include the Carl and Lucy Holm Memorial picnic shelter. Consumption of alcoholic liquor at each sheltered picnic area shall include the structure and within fifty (50) feet there of;

(D) The City of Stromsburg tennis courts located in Buckley Park to include the fenced area of the tennis court and within fifty (50) feet thereof only when the Nebraska Liquor Control Commission has issued a special designated license to a retail licensee pursuant to section 52-124.11 RS Neb. The consumption of alcoholic liquors at said location when the Nebraska Liquor Commission has issued a special designated license shall be governed by the Nebraska Liquor Control Act;

(E) The Stromsburg Public Library Building;

(F) The area within the sidewalk boundaries of the public square only when the Nebraska Liquor Control Commission has issued a special designated license to a retail licensee pursuant to section 52-124.11 RS Neb., as amended. The consumption of alcoholic liquors at said location when the Nebraska Liquor Commission has issued a special designated license shall be governed by the Nebraska Liquor Control Act. (Ord. No. 1133, 4/20/17)

**§ 6-430 ABANDONED AUTOMOBILES.**

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

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***ABANDONED VEHICLE.***

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

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

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

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

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

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

1. No motor vehicle subject to forfeiture under section 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 section 71-4603 RS Neb. **MOBILE HOME** does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to section 60-169 RS Neb.

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

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

(B) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers issued pursuant to section 60-376 RS Neb. affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of two hundred fifty dollars (\$250.00) or less, title shall immediately vest in the City. Any certificate of title issued under this division to the City shall be issued at no cost to the City. (*Ref. 60-1902 RS Neb.*)

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

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

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





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

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

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

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

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

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

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

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

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

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

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

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related

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

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

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

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

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

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

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

(K) Any person violating the provisions of this section shall be guilty of an offense. *(Ref. 60-1911 RS Neb.) (Amended by Ord. No. 1142, 5/22/17)*

***Statutory reference:***

*Motor Vehicle Registration Act, see section 60-301 RS Neb.*

***Cross reference:***

*Abandoned vehicles on property, see § 5-424*



**§ 6-431 UNLICENSED OR INOPERABLE VEHICLES.**

(A) No person in charge or control of any property within the City, other than City property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on that property longer than thirty (30) days.

(B) No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time, provided that this section shall not apply to the following:

(1) A vehicle bearing a valid “In Transit” sticker;

(2) A vehicle in an enclosed building;

(3) A vehicle on the premises of a business enterprise operated in a lawful place and manner when the vehicle is necessary to the lawful operation of the business; or

(4) A vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.

(C) Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of an offense.

***Statutory reference:***

*“In Transit” stickers, see section 60-376 RS Neb.*

**§ 6-432 DISCHARGE OF FIREARMS.**

It shall be unlawful for any person to fire or discharge any gun, pistol, firing piece, or other firearm within the City; provided however that this section shall not apply to any law enforcement official in the discharge of official duties and shall not apply to any person who has obtained a conditional use permit from the City pursuant to the applicable sections of the Stromsburg Zoning Ordinance to operate an indoor firing range. *(Amended by Ord. No. 1077, 9/27/13)*

***Statutory reference:***

*Authority to regulate, see section 17-556 RS Neb.*

**§ 6-433 SLINGSHOTS, AIR GUNS, BB GUNS.**

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the City.



**§ 6-434 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:

(1) A person engaging in those acts as a direct result of being a trafficking victim as defined in section 28-830 RS Neb., such person shall be immune from prosecution for prostitution offense; or

(2) 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 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.*) (*Amended by Ord. Nos. 1094, 9/22/14; 1143, 5/22/17; 1168, 6/12/17*)

**§ 6-435 PUBLIC INDECENCY.**

A person, eighteen (18) years of age or over, 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:

(A) An act of sexual penetration as defined in section 28-318 RS Neb.;

(B) An exposure of the genitals of the body done with intent to affront or alarm any person; or

(C) A lewd fondling or caressing of the body of another person of the same or opposite sex. (*Ref. 28-806 RS Neb.*)

**§ 6-436 GAMBLING.**

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

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

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

(a) Engaging in bookmaking;

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

(c) Betting something of value in the amount of five hundred dollars (\$500.00) or more with one (1) or more persons in one day; or

(2) Participates in unlawful gambling as a player by betting less than five hundred dollars (\$500.00) in any one (1) day. (*Ref. 28-1104 RS Neb.*)

(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) This division shall not apply to any coin-operated mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding free games, which is intended to be played and is in fact played for amusement only, and which may allow the player the right to replay such gaming device at no additional cost, which right to replay shall not be considered money or property, except that such mechanical game:

(a) Can be discharged or accumulated free replays only by reactivating the game for one (1) additional play for each accumulated free replay; and

(b) Makes no permanent record directly or indirectly of free replays so awarded.

(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, are hereby declared to be illegal and excluded from the exemption granted in this division. (*Ref. 28-1107 RS Neb.*)



(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. *(Ref. 28-1108 RS Neb.)*

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

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

(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 section 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 adduce at a separate hearing in the same prosecution, conducted pursuant to section 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. *(Ref. 28-1111 RS Neb.)*

(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. *(Ref. 28-1112 RS Neb.)*

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

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

(2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or section 9-701 RS Neb. *(Ref. 28-1113 RS Neb.)*

(J) In any prosecution under this section in which it is necessary to prove the occurrence of the 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. 28-1117 RS Neb.) (Amended by Ord. No. 1169, 6/12/17)*

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**§ 6-437 CURFEW; DEFINITIONS.**

For the purpose of §§ 6-437 through 6-440, the definitions set forth in this section are to be applied in the construction of the provisions of §§ 6-437 to 6-440, unless the context of a provision otherwise specifies:

**CUSTODIAN.** A person over the age of nineteen (19) who stands in loco parentis to a minor.

**GUARDIAN.** Any person other than a parent who has legal guardianship of a minor.

**MINOR.** Any person under the age of eighteen (18) years.

**PARENT.** A natural or adoptive parent of a minor.

**PUBLIC PLACE.** Any street, alley, highway, sidewalk, park, playground or other place within the corporate limits of the City to which the general public has access to or may resort for business, entertainment or other lawful purpose. Further, a **PUBLIC PLACE** shall include, but not be limited to, stores, restaurants, bars, bowling alleys or any other like place. It shall also include the front or immediate area of any of the above. (*Ord. No. 756, 8/11/98*) (*Amended by Ord. No. 865, 6/25/02*)

**§ 6-438 CURFEW FOR MINORS.**

(A) It shall be unlawful for any minor to loiter, remain idle, wander, stroll or play in any public place or to ride in or upon, drive, or otherwise operate any automobile, bicycle or other vehicle in, upon, or over or through any public place between the hours of 12:01 a.m. and 6:00 a.m. on the same day; subject to the exceptions in division (B) of this section.

(B) This section does not apply to a minor who is:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;

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(6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(7) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor;

(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

(9) Married or had been married or had disabilities of minority removed in accordance with State law.

#### **§ 6-439 CURFEW; PARENTAL RESPONSIBILITY.**

It shall be unlawful for the parent, guardian or custodian of any minor to allow any minor under his or her care or control to violate the provisions of § 6-438. (*Ord. No. 756, 8/11/98*)

#### **§ 6-440 CURFEW; PROCEDURE AND DETENTION.**

(A) Any police officer upon finding a minor in violation of § 6-438 shall request the minor to give his or her complete name and address and any information necessary to enable the officer to contact the minor's parent, guardian or custodian and shall warn the minor that he or she is in violation of curfew and shall direct the minor to proceed at once to his or her usual place of residence. The police officer shall notify the minor's parent, guardian or custodian by mail of such incident.

(B) If such minor fails to proceed to his or her usual place of residence as directed or refuses to give such police officer his or her correct name and address in the means by which the officer may contact such minor's parent, guardian or custodian, or if the minor has been warned on a prior occasion that he or she has violated curfew, such minor shall be taken to the Polk County Sheriff's office and the minor's parent, guardian or custodian shall be notified to come and take charge of the minor. If the parent, guardian or custodian cannot be located or fails to come and take charge of the minor, the minor shall be held in the juvenile detention facilities of the Polk County jail until such parent, guardian or custodian comes and takes charge of the minor or until 6:00 a.m. on the same day, whichever shall occur first. (*Ord. No. 756, 8/11/98*)





**§ 6-441 SEXUAL PREDATOR RESIDENCY RESTRICTIONS.***(A) Findings and intent.*

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

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

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

*(B) Definitions.* For purposes of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

***RESIDE.*** To sleep, live, or dwell at a place, which may include more than one (1) location, and may be mobile or transitory.

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

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

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

***SEXUAL PREDATOR.*** An individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in section 29-4001.01 RS Neb., and who has victimized a person eighteen (18) years of age or younger.

*(C) Sexual predator residency restrictions; penalties; exceptions.*

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



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

(3) *Penalties.* A person who violates this section shall be punished as provided generally in § 6-501 of the City of Stromsburg Municipal Code.

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

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

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

(c) Established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (*Ord. No. 1019, 5/24/10*)

***Statutory Reference:***

*The Sexual Predator Residency Restriction Act, see sections 29-4003 and 29-4013 RS Neb.*





## ARTICLE 5: PENAL PROVISION

### § 6-501 VIOLATION; PENALTY.

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

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

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. *(Ref. 17-505, 18-1720, 18-1722 RS Neb.) (Amended by Ord. No. 817, 6/13/00)*



