

## Chapter 6

### POLICE REGULATIONS

#### Article 1. Dogs

**§6-101 DOGS; DEFINITIONS.** The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**OWNER.** Any person possessing or harboring or having the care or custody of a dog.

**UNCONFINED.** The dog is not securely confined indoors or confined in a securely enclosed, locked pen or structure; or restricted by underground pet fencing upon the premises of the owner of the dog. The pen or structure must have secure sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot. All such pens and structures must be kept in a clean and sanitary condition. Underground pet fencing must be set back two (2) feet from any public sidewalk or City easement. (*Ord. No. 9-2007, 5/9/07*)

**§6-102 DOGS; LICENSE.** (1) Any person who shall own, keep, or harbor a dog over the age of three (3) months within the city shall within thirty (30) days after acquisition of said dog acquire a license and pay a license fee for each such dog. Thereafter, the license fee for each such dog shall be due annually on or before June 30 of each year. Licenses shall be issued by the City upon the payment of a license fee of ten (\$10.00) dollars for each neutered male dog and each spayed female dog, and fifteen (\$15.00) dollars for each male or female dog which is not neutered or spayed. If said license is applied for and the license fee is paid between June 1 and June 30, the license fee for a neutered male dog or spayed female dog shall be reduced to three (\$3.00) dollars and the fee for a male or female dog which is not neutered or spayed shall be reduced to five (\$5.00) dollars. Said

licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his or her name and address and the name, breed, color, and sex of each dog licensed by said owner. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown.

(2) Every dog guide, hearing aid dog, and service dog shall be licensed as required herein, but no license fee shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner of the dog shall be liable for the payment of a license fee as prescribed herein. The owner of any such dog shall be required to provide to the City proof that the dog has a current rabies certificate. (*Ord. No. 9-2007, 5/9/07*)

**§6-103 DOGS: VACCINATION AGAINST RABIES REQUIRED.** Any person within the City owning a dog three (3) months of age or older shall have such dog vaccinated against rabies. Dogs shall be vaccinated within thirty days after they have reached three (3) months of age, revaccinated within one (1) year after the initial vaccination, and shall subsequently be revaccinated every two (2) years thereafter. No period of more than two (2) years shall elapse after any such dog is first vaccinated until such dog shall again be vaccinated except as set forth herein. (*Ord. No. 9-2007, 5/9/07*)

**§6-104 DOGS; LICENSE TAGS.** Upon the payment of the required license fee, the City shall issue to the applicant a license certificate and a metallic tag for each dog license. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the applicant to keep or harbor the dog in the city until June 30 of the year following such licensing. If a license tag is lost and upon evidence that the original plate or tag was issued in

accordance with the provisions of this Article, the City shall issue a duplicate or new tag for the balance of the year at no cost. All license fees and collections shall be credited to the general fund of the City. *(Ord. No. 9-2007, 5/9/07)*

**§6-105 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 City identification other than that issued by the City for such dog, nor shall the owner, keeper, or harbinger knowingly license an unneutered male dog or unspayed female dog with a license prescribed for a neutered male or spayed female dog. *(Ord. No. 9-2007, 5/9/07)*

**§6-106 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. *(Ord. No. 9-2007, 5/9/07)*

**§6-107 DOGS; LIMIT OF NUMBER OF ANIMALS PER HOUSEHOLD.** No household shall keep or harbor more than three (3) dogs, within the corporate limits. Offspring of dogs will be allowed to be nursed and raised until eight (8) weeks of age and at that time must be removed from the property where kept to reduce the total number of dogs over eight (8) weeks of age to the maximum of three (3). *(Ord. No. 9-2007, 5/9/07)*

**§6-108 DOGS; LIABILITY OF PERSON CARING FOR DOGS.** Any person who shall feed and/or permit any dog to be, for ten (10) days or more, in or about his residence or other property within the corporate limits, shall be deemed the owner and possessor of such dog or cat and shall be deemed to be liable for all penalties prescribed in this Article and for any damages which such dog shall cause. *(Ord. No. 9-2007, 5/9/07)*

**§6-109 DOGS; NONRESIDENT DOGS.** The licensing requirements of this Article shall not apply to any dog belonging to a

nonresident of the City and kept within the City for no longer than thirty (30) days; however, all such dogs shall at all times while in the City be kept on a leash or within a building or other enclosure under restraint by the owner. (*Ord. No. 9-2007, 5/9/07*)

**§6-110 DOGS; UNLICENSED.** All dogs found running at large upon the streets and public grounds of the City are declared to be a public nuisance. Dogs found running at large shall be impounded by the Police Department or designated Animal Control Officer in the designated animal shelter. (*Ord. No. 9-2007, 5/9/07*)

**§6-111 DOGS; RUNNING AT LARGE.** An animal shall be deemed to be at large when it is off the property of its owner and not under control or restraint of a competent person. For purposes of this section, restraint shall mean controlled by leash, "at heel" beside a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets, or within the property limits of his or her owner or keeper. It shall be the duty of the Police Department or designated Animal Control Officer to cause any dog found to be running at large within the City to be taken up and impounded. (*Ord. No. 9-2007, 5/9/07*)

**§6-112 DOGS; CAPTURE IMPOSSIBLE.** The Police Department or designated Animal Control Officer shall have the authority to kill any animal showing vicious tendencies, or displaying characteristics of rabies which make capture impracticable because of the danger involved. (*Ord. No. 9-2007, 5/9/07*)

**§6-113 DOGS; INTERFERENCE WITH POLICE.** It shall be unlawful for any person to hinder, delay, or interfere with any Police Officer or designated Animal Control Officer who is performing any duty enjoined upon him by the provisions of this Article, or to break open, or in any manner to directly or indirectly aid, counsel or advise the breaking open of the municipal animal shelter, any ambulance wagon, or other vehicle used for the collection or conveyance of dogs to the municipal animal shelter. (*Ord. No. 9-2007, 5/9/07*)

**§6-114 DOGS; BARKING AND OFFENSIVE NOISE.** (1) 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 the public sidewalks, streets or alleys of the City. The provisions of this section shall not be construed to apply to the designated municipal animal shelter.

(2) The phrase "annoy or disturb the neighborhood or person" shall include, but not be limited to, the creation of any noise constituting a nuisance by any animal which can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a ten-minute period of time with one minute or less lapse of time between each animal noise during the ten-minute period. (*Ord. No. 9-2007, 5/9/07*)

**§6-115 DOGS; FEMALE IN HEAT.** It is unlawful for the owner, keeper or harbinger of a female dog to permit her to run at large within the City while in heat. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and may be impounded according to the provisions of this Article. (*Ord. No. 9-2007, 5/9/07*)

**§6-116 DOGS; LIABILITY OF OWNER.** The owner or owners of any dog shall be liable for any and all damages that may accrue to any person, other than a trespasser, by reason of having been bitten, scratched or otherwise injured, by any such dog. (*Ord. No. 9-2007, 5/9/07*)

**§6-117 DANGEROUS DOGS; TERMS DEFINED.** For purposes of sections 6-117 to 6-123.4 the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL OFFICER shall mean any person authorized by law or employed or appointed for the purpose of aiding

in the enforcement of this section or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals.

DANGEROUS DOG shall mean any dog that:

- (a) Has killed or inflicted severe injury on a human being on public or private property;
- (b) Has killed a domestic animal without provocation while the dog was off the owner's property; or
- (c) Has been previously determined to be a potentially dangerous dog by an Animal Control Officer and the owner has received notice of such determination and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

A dog shall not be defined as a DANGEROUS DOG if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

DOMESTIC ANIMAL shall mean a cat, a dog, or livestock.

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

POTENTIALLY DANGEROUS DOG shall mean:

- (a) Any dog that when unprovoked:
  - (i) Inflicts a wound on a human or injures a domestic animal either on public or private property, or
  - (ii) Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
- (b) Any dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

SEVERE INJURY shall mean any physical injury to a person that results in disfiguring lacerations requiring multiple sutures or cosmetic

surgery, or one (1) or more broken bones, or that creates a potential danger to the life or health of the victim.

WOUND shall mean any injury to a person not included within the definition of severe injury. (*Ord. No. 1-2010, 8/11/10*)

**§6-117.1 DANGEROUS AND POTENTIALLY DANGEROUS DOGS PROHIBITED.** It shall be unlawful for any person after being notified as provided herein to keep or harbor a dangerous or a potentially dangerous dog within the City of Wakefield without having complied with the provisions of this Article. (*Ord. No. 1-2010, 8/11/10*)

**§6-118 DANGEROUS AND POTENTIALLY DANGEROUS DOGS: PROCEDURE.** Whenever it shall come to the attention of the Animal Control Officer that any person within the City of Wakefield is keeping or harboring a dangerous dog or a potentially dangerous dog as defined in this Article, the Animal Control Officer shall notify the owner of such animal in writing that such dog must be registered as a dangerous or potentially dangerous dog within ten (10) days after the receipt of such written notice. Said notice shall be served either in person or by mailing such notice by certified or registered mail. (*Ord. No. 1-2010, 8/11/10*)

**§6-119 DANGEROUS DOGS; REGISTRATION REQUIREMENTS.** (1) The owner of any dangerous dog shall register such dog with the Animal Control Officer and upon registration shall provide the following:

- (a) The name, address and telephone number of the owner;
- (b) A written description and representation indicating the owner has and will continue to comply with the confinement provisions of this Article;
- (c) Written evidence from a licensed veterinarian that the dog is currently neutered or spayed;
- (d) A written acknowledgment that the owner shall notify the Animal Control Officer immediately if said dog is known by the owner to be running at large, unconfined, or when the owner has any

knowledge or belief that the dog has bitten or is alleged to have bitten a human being or another animal;

(e) A written acknowledgment that the owner of said dog shall notify the Animal Control Officer of any changes in material recorded as a part of the registration within twenty-four (24) hours of said change. Changes in material recorded as part of the registration shall include information that the dog has been sold, given away, or otherwise transferred to any other person, and in that event the registered owner shall provide the name, address, and telephone number of such person; and

(f) A non-refundable registration fee of one hundred dollars (\$100.00) or as otherwise established by resolution of the Governing Body, which shall be in addition to any other license fee required by this Article.

(2) Upon satisfactory completion of all the requirements of this section, the Animal Control Officer shall issue a registration certificate which shall be used to assign the dog a permanent number.

(3) The registration requirements, including the notification requirements acknowledged therein, shall be construed as affirmative duties upon the owner, failure of which shall constitute a violation of this section.

(4) It shall be unlawful for any person registering a dog to falsify or misrepresent material recorded as a part of the registration. (*Ord. No. 1-2010, 8/11/10*)

**§6-120 POTENTIALLY DANGEROUS DOGS: REGISTRATION REQUIREMENTS.**

(1) The owner of any potentially dangerous dog shall register such dog with the Animal Control Officer and upon registration shall provide the following:

(a) The name, address and telephone number of the owner;

(b) A written acknowledgment that the owner shall notify the Animal Control Officer immediately or when the owner has any knowledge or belief that the dog has bitten or is alleged to have bitten a human being or another animal;

(c) A written acknowledgment that the owner of said dog shall notify the Animal Control Officer of any changes in material



recorded as a part of the registration within twenty-four (24) hours of said change. Changes in material recorded as part of the registration shall include information that the dog has been sold, given away, or otherwise transferred to any other person, and in that event the registered owner shall provide the name, address, and telephone number of such person; and

(d) A non-refundable registration fee of one hundred dollars (\$100.00) or as otherwise established by resolution of the Governing Body, which shall be in addition to any other license fee required by this Article.

(2) Upon satisfactory completion of all the requirements of this section, the Animal Control Officer shall issue a registration certificate which shall be used to assign the dog a permanent number.

(3) The registration requirements, including the notification requirements acknowledged therein, shall be construed as affirmative duties upon the owner, failure of which shall constitute a violation of this section.

(4) It shall be unlawful for any person registering a dog to falsify or misrepresent material recorded as a part of the registration. (*Ord. No. 1-2010, 8/11/10*)

**§6-121 DANGEROUS DOGS: SECURELY CONFINED.**

(1) It shall be unlawful for the owner of a dangerous dog to fail, neglect or refuse to securely confine such dog, 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. For materials used to provide a securely enclosed and locked pen or structure as required herein, such materials shall at a minimum, comply with the following:

(a) Any fencing material used shall not have openings with a diameter of more than two (2) inches, or in the case of wooden fence materials, gaps of more than two (2) inches wide;

(b) Any gates within such pen or structure shall be lockable or of such design to prevent the entry of children or the escape of the dog.

(2) The required pen or structure shall have secure sides and a secure top. Any top provided shall be a fence outrigger on the top of the fencing material or an equivalently secured top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements. (*Ord. No. 1-2010, 8/11/10*)

**§6-122 DANGEROUS DOGS; LEASH REQUIRED.** It shall be unlawful for any owner of a dangerous dog to permit the dog to be out of the confinement required in section 6-121 unless the dog is securely restrained by a chain or leash, or to permit such dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash and properly muzzled to reasonably prevent the dog from biting. (*Ord. No. 1-2010, 8/11/10*)

**§6-123 DANGEROUS DOGS; WARNING SIGNS.** The owner of a dangerous dog shall display signs provided by the Animal Control Officer warning that there is a dangerous dog on the property. These signs shall be placed under the supervision and direction of the Animal Control Officer so as to be readily discernible and clearly visible from the public sidewalk or property line at any actual or customary point of entry to the premises. An additional sign to be provided by the Animal Control Officer shall be conspicuously displayed on any pen or structure provided for such dangerous dog. (*Ord. No. 1-2010, 8/11/10*)

**§6-123.1 DANGEROUS DOGS; CONFISCATION.** (1) Any dangerous dog may be immediately confiscated by the Animal Control Officer if in violation of this Article. The owner shall be responsible for the reasonable costs incurred for the care of a dangerous dog confiscated or for the destruction of any dangerous dog as authorized herein.

(2) Before destroying a dog, the owner shall be given the option of permanently removing the dog from the corporate limits, unless the dog has caused serious bodily injury to a person, in which case the dog shall be humanely destroyed. The owner of the dog shall be given the opportunity to have the dog humanely destroyed by a veterinarian of

the owner's choice; and the owner shall produce to the Animal Control Officer a statement from the veterinarian certifying the action taken. After capture of the dog, the City shall notify the owner of the action to be taken. The notice shall be served by mailing such notice to the owner of the dangerous dog by certified mail, return receipt requested, or in the alternative, by personal service upon the owner by the Animal Control Officer or local law enforcement. If the owner shall have failed to destroy the dangerous dog after the expiration of ten (10) calendar days from the receipt of such notice and no appeal is taken by the owner, the Animal Control Officer shall have such animal humanely destroyed.

(3) The decision of the Animal Control Officer to permanently remove the dangerous dog from the corporate limits and/or humanely destroy the dangerous dog may be appealed to the City Council, which shall hear and render a decision in this matter. Such appeal by the owner to the City Council shall be filed in writing with the City Clerk within ten (10) days after receipt of the notification that the dangerous dog shall be permanently removed or destroyed. The disposition of any animal shall be stayed during the pendency of such appeal. The dog shall be surrendered by the owner to the custody of the City during the appeal process. The decision of the City Council shall be final and binding upon the owner appellant, and its decision may be appealed as provided by law. The City Council shall review the information provided by the Animal Control Officer, and the owner of the dog, and any other interested party, and render a decision to the effect that the dog is not dangerous or the dog is dangerous and should be permanently removed from the corporate limits or destroyed. (*Ord. No. 1-2010, 8/11/10*)

**§6-123.2 DANGEROUS DOGS; BITES UNLAWFUL.** It shall be unlawful for the owner of any dangerous or potentially dangerous dog required to be registered under this Article to permit or allow such dog to kill, bite, chase, attack, injure, wound, or endanger in such a way that the dog may be considered either a dangerous dog or a potentially dangerous dog as defined in section 6-117. (*Ord. No. 1-2010, 8/11/10*)

**§6-123.3 DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS: APPEALS.** The determination that any dog is dangerous or potentially dangerous as defined herein shall be deemed to have been made upon notice to the owner of such dog as provided in section 6-118. Upon such notification and after the expiration of eleven (11) days from the date of such notice, the determination shall be final and binding upon the City and upon the owner unless within ten (10) days after notice, the owner requests, in writing, a review of the determination by the City Council. At such review the owner may present any written statements or documentary evidence relevant to the determination. The City Council shall make a final and binding determination after such review within fifteen (15) days of the date of review. The owner may appeal any final determination to the district court as provided by law. (*Ord. No. 1-2010, 8/11/10*)

**§6-123.4 DOGS; PENALTY.** It shall be unlawful for any person upon whom a duty is placed by the provisions of this Article to fail, neglect, or refuse to perform such duty, or to violate any of the provisions hereof. Upon conviction thereof, such person shall be punished as provided in section 6-401 of the Municipal Code of the City of Wakefield. Each day that a violation of this Article continues shall be punishable as a separate offense. The penalty herein provided shall be cumulative and in addition to revocation, cancellation, or forfeiture of any license, permit, or right granted by this Article or elsewhere. (*Ord. No. 1-2010, 8/11/10*)

**§6-124 DOGS; PROHIBITED BREEDS DEFINED.** Any pit bull terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier, or any mixed breed of dog which contains as an element of its breeding, the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier, so as to be identifiable as partially of the breed of American Pitbull Terrier or Staffordshire Bull Terrier, or American Staffordshire Bull Terrier; or any Doberman Pinscher, Rotweiler, Chow or Sharpei breed of dog, or any mixed breed of dog which contains as an element of its breeding, the breed of any

Doberman Pinscher, Rotweiler, Chow or Sharpei, so as to be identifiable as partially of the breed of Doberman Pinscher, Rotweiler, Chow or Sharpei. (*Ord. No. 9-2007, 5/9/07*)

**§6-125 DOGS; PROHIBITION OF PROHIBITED BREEDS OF DOGS WITHIN THE CORPORATE LIMITS.** (1) It shall be unlawful for any person to keep, harbor, kennel, or otherwise maintain a prohibited breed of dog within the corporate limits of the City.

(2) Any person who violates this provision shall be subject to the penalty prescribed in § 6-401 of this Code. (*Ord. No. 9-2007, 5/9/07*)

**§6-126 DOGS; RABIES PROCLAMATION.** It shall be the duty of the Governing Body, whenever in its opinion the danger to the public safety from rabid animals is great or imminent, to issue a proclamation ordering persons owning, keeping or harboring any animal within the corporate limits to muzzle their animals, or to confine them for a period of not less than thirty (30) days nor more than ninety (90) days from the date of such proclamation, or until such danger has passed. The animals may be harbored by any good and sufficient means in a house, garage or yard on the premises where the owner resides. Upon issuing the proclamation, it shall be the duty of all persons owning, keeping or harboring any animals to confine the same as provided in this Article. (*Ord. No. 9-2007, 5/9/07*)

**§6-127 DOGS; RABIES SUSPECTED.** Any animal suspected of being afflicted with rabies, or any animal not vaccinated in accordance with the provisions of this Article which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten (10) days. If upon examination by a veterinarian, the animal has no clinical signs of rabies at the end of the impoundment, it may be released to the owner upon payment of all impoundment fees, or, in the case of an unlicensed cat or dog, it shall be disposed of in accordance with the provisions of this Article. If the owner of the animal has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten

(10) days, after which time the animal shall be examined by a licensed veterinarian. If no sign of rabies is observed, the animal may be released from confinement. (*Ord. No. 9-2007, 5/9/07*)

**§6-128 DOGS; PROCEDURE WHEN RABIES SUSPECTED.**

When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under such observation, the Police Department or the designated Animal Control Officer shall immediately send the head of such animal to the State Department of Health for pathological examination. The Police Department or the designated Animal Control Officer shall notify the proper health officer of any reports of human contact with the suspected rabid animal and the diagnosis made of the suspected animal. Every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed at the owner's expense. (*Ord. No. 9-2007, 5/9/07*)

**§6-129 DOGS; DESTRUCTION OF RABID ANIMAL.** No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human except as provided for in this article, nor remove such animal from the corporate limits without written permission from the Police Department or Animal Control Officer. The carcass of any dead animal exposed to rabies shall be surrendered to the Police Department or Animal Control Officer upon demand. The Police Department or Animal Control Officer shall direct the disposition of any animal found to be infected with rabies. No person shall fail or refuse to surrender any animal for quarantine or destruction as required in this Article when demand is made by the Police Department or the Animal Control Officer. (*Ord. No. 9-2007, 5/9/07*)

**§6-130 DOGS; RABIES; DUTY TO REPORT.** It shall be the duty of every physician, or other medical practitioner, to report to the Police Department or Animal Control Officer the names and addresses of persons treated for bites suffered within the corporate limits and inflicted by animals suspected of, or inflicted with, rabies, together

with such other information as will be helpful in rabies control. It shall be the duty of every licensed veterinarian to report to the Police Department or Animal Control Officer his or her diagnosis of any animal originating from the corporate limits observed by him as a rabies suspect. (*Ord. No. 9-2007, 5/9/07*)

## Wakefield Code



## Article 1.1. Cats

**§6-1.101 CATS; DEFINITIONS.** For purposes of this Article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAT shall include both male and female cats, domestic and feral.

OWNER means any person possessing or harboring or having the care or custody of a domestic or feral cat. (*Ord. No. 7-2015, 8/12/15*)

**§6-1.102 LIMIT OF NUMBER OF CATS PER HOUSEHOLD.**

No person shall own or keep more than three (3) cats within the corporate limits. Offspring of cats will be allowed to be nursed and raised until three (3) months of age and at that time must be removed from the property where kept to reduce the total number of cats over three (3) months of age to the maximum of three (3). (*Ord. No. 7-2015, 8/12/15*)

**§6-1.103 CATS ALLOWED OUTDOORS - PROHIBITED.**

It is unlawful for any person possessing, harboring, keeping, having an interest in, or having control or custody of a cat to permit or allow any such cat to stray from the property of the owner. Any cat found off of the owner's property shall be deemed a cat running at large and shall be deemed a nuisance and impounded. The disposition of impounded cats shall be governed by the provisions of §6-211 of the Wakefield Municipal Code. (*Ord. No. 7-2015, 8/12/15*)

**§6-1.104 CATS RUNNING AT LARGE.** It is hereby declared unlawful for any owner, keeper, or harbinger of any cat to let such cat run at large. (*Ord. No. 7-2015, 8/12/15*)

**§6-1.105 CATS; UNAUTHORIZED FEEDING OR TRAPPING.**

No feeding or trapping of cats, domestic or feral, outside or in accessory buildings is permitted at any time within the City limits by

any person, with the exception of City law enforcement personnel or their designees, or unless the feeding or trapping is authorized by the City as part of an approved cat population control plan. (*Ord. No. 7-2015, 8/12/15*)

**§6-1.106 PENALTY FOR VIOLATIONS.** Any person upon whom a duty is placed by the provisions of this Article who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Article, shall be punished according to the provisions of §§ 6-401 and/or 6-402 of the Wakefield Municipal Code. Each day that a violation of any section in this Article continues shall constitute a separate and distinct offense. (*Ord. No. 7-2015, 8/12/15*)

## 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 of an animal, to permit a horse, mule, cow, sheep, goat, swine or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. (*Ord. No. 9-2007, 5/9/07*)

**§6-202 ANIMALS; BANNED FROM MUNICIPALITY.** It shall be unlawful for any person to keep or maintain any horse, mule, sheep, cow, goat, swine, poultry, including chickens, ducks, or geese, or other livestock, within the corporate limits; provided, that any such animals kept within the corporate limits by virtue of a grandfather clause shall not be kept or maintained within fifty (50) feet of any dwelling. This distance shall be measured from any outside edge of the enclosure or place wherein such animals are kept, maintained, or held to the occupied residence affected. (*Ord. No. 9-2007, 5/9/07*) (*Amended by Ord. No. 14-2012, 12/19/12*)

**§6-203 ANIMALS; CRUELTY.** No person shall cruelly or unnecessarily beat, overwork, or insufficiently shelter or feed any animal within the City. (*Ord. No. 9-2007, 5/9/07*)

**§6-204 ANIMALS; KILLING AND INJURING.** No person shall kill or injure any animal by the use of firearms, stones, club, poison or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to affect a capture of the animal. (*Ord. No. 9-2007, 5/9/07*)

**§6-205 ANIMALS; FOWL; BANNED.** No person shall keep, harbor, or permit any poultry, chickens, turkeys, geese, or any other fowl under his charge within the corporate limits. Any fowl found or kept within the City shall be held to constitute a nuisance and may be killed by any police officer or designated animal control officer. (*Ord. No. 9-2007, 5/9/07*)

**§6-206 ANIMALS; BEEKEEPING; BANNED.** No person shall keep any bees on his property or in hives under his charge. Any bees found or kept within the corporate limits shall be held to constitute a nuisance and may be exterminated by any police officer or designated animal control officer. (*Ord. No. 9-2007, 5/9/07*)

**§6-207 ANIMALS; PIGEONS; BANNED.** No person shall pen, raise, keep or maintain any pigeons in or upon his premises. Any pigeons found or kept within the corporate limits shall be held to constitute a nuisance and may be killed by any police officer or designated animal control officer. (*Ord. No. 9-2007, 5/9/07*)

**§6-208 ANIMALS; KEEPING OF WILD, DANGEROUS AND EXOTIC ANIMALS.** No wild, dangerous, and/or exotic animals may be kept within the corporate limits except such animals may be kept for exhibition purposes by circuses and educational institutions.

(1) A WILD AND/OR DANGEROUS ANIMAL is defined as:

(a) Any animal, fish, reptile, insect, or species of animal, which is not naturally tame or gentle, or which is of a wild nature or disposition, or which is capable of killing, inflicting serious injury to, or causing disease among human beings or domestic animals; or

(b) Any specific animal declared to be dangerous by the City Council or the Animal Control Officer.

(2) As an illustration, not to be considered as a limitation, the following animals shall be deemed wild and/or dangerous animals: lions, tigers, jaguars, leopards, cougars, lynx, ocelots, bobcats, bears, crocodiles, alligators, venomous and constricting snakes, wolves, foxes, badgers, wolverines, weasels, monkeys, apes, or any other dangerous animal, fish, reptile, or insect which can normally be found in the wild state.

(3) An EXOTIC ANIMAL is defined as any animal which is not commonly sold through licensed livestock auction markets pursuant to the Nebraska Livestock Auction Market Act. Such animals shall include, but not be limited to, miniature cattle, miniature horses, miniature donkeys, Barbary sheep, Dall's sheep, alpacas, llamas, pot-bellied pigs, and small mammals, with the exception of cats of the

Felis domesticus species and dogs of the Canis familiaris species, The term also includes birds and poultry. The term does not include beef and dairy cattle, calves, swine, bison, sheep sold for wool or food, goats sold for dairy, food, or fiber; and domesticated cervine animals. (Ord. No. 9-2007, 5/9/07) (Amended by Ord. No. 15-2012, 12/19/12)

**§6-209 ANIMALS; ANIMAL WASTE.** It shall be unlawful for the owner of any animal to allow the animal to defecate off of the property of the owner, or on any public property, unless the animal owner immediately collects and removes the animal waste from the property. It shall be unlawful for any person to dispose of any pet or animal waste by dumping or abandoning said waste on property located within the city limits. The owner of any animal that damages property by defecating on said property shall be liable for any damage resulting therefrom. (Ord. No. 9-2007, 5/9/07)

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

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

BEARBAITING. Pitting of any animal against a bear.

COCKFIGHTING. Pitting of a fowl against another fowl.

DOG FIGHTING. Pitting of a dog against another dog.

PITTING. Bringing animals together in combat.

(2) *Prohibited acts.* No person shall:

(a) Knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting or pitting an animal against another;

(b) Knowingly receive money for the admission of another person to a place kept for such purpose;

(c) Knowingly own, use, train, sell or possess an animal for the purpose of animal pitting; or

(d) Knowingly permit any act as described in this section to occur on any premises owned or controlled by him.

(3) *Spectators*. No person shall knowingly and willingly be present at the site of, and be a witness to as a spectator, any incident of dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in this section. (*Ord. No. 9-2007, 5/9/07*)

**§6-211 ANIMALS; IMPOUNDING.** (1) Except as otherwise provided in this Article, it shall be the duty of the Police Department or designated Animal Control Officer to capture, secure, and remove in a humane manner to the municipal animal shelter any animal found to be in violation of any of the provisions of this Article. The animals so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded animal shall be kept and maintained at the pound for a period of not less than five (5) calendar days unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at City Hall within twenty-four (24) hours after impoundment as public notification of such impoundment. Any animal may be reclaimed by its owner during the period of impoundment by payment of the required impoundment and boarding fees, and any additional fees as charged by the animal shelter or other place of impoundment. The owner shall be required to comply with the licensing and rabies vaccination requirements within seventy-two (72) hours after the animal's release. If the animal is not claimed at the end of the required waiting period after public notice has been given, the City may dispose of the animal in accordance with applicable rules and regulations. If in the judgment of the Police Department or designated Animal Control Officer, a suitable home can be found for any such animal within the City, the animal shall be turned over to that person; provided, that the new owner shall be required to pay all fees and meet all licensing and vaccination requirements provided in this Article. The City shall

acquire legal title to any unlicensed animal impounded in the designated animal shelter for a period longer than the required waiting period after giving notice. All animals shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such animal.

(2) The City may contract for humane shelter, spay/neutering and euthanization services with a commercial or non-profit organization through written agreement containing minimum population density standards, hygiene standards, documentation of services and disposal. (*Ord. No. 9-2007, 5/9/07*)

**§6-212 ANIMALS; IMPOUNDMENT FEE.** The owner of any animal impounded at the municipal animal shelter shall be responsible for all costs of impoundment, food, and any applicable veterinary expenses pertaining to the impounded animal. An impoundment fee of ten dollars (\$10.00) shall be paid by the owner of the impounded animal to the City of Wakefield. If an animal is impounded more than one time in a twelve (12) month period, the impoundment fee will increase to fifteen dollars (\$15.00) for the second offense, to twenty-five dollars (\$25.00) for the third offense, and to forty dollars (\$40.00) for each subsequent offense. A boarding fee of five dollars (\$5.00) per day will be charged to the owner of such animal. (*Ord. No. 9-2007, 5/9/07*)

**§6-213 ANIMALS; ANIMAL SHELTER.** The municipal animal shelter shall be safe, suitable and conveniently located for the impounding, keeping and destruction of animals. The shelter shall be sanitary, ventilated and lighted. (*Ord. No. 9-2007, 5/9/07*)

## Wakefield Code



### Article 3. Miscellaneous Misdemeanors

**§6-301**        **MISDEMEANORS; CRIMINAL ATTEMPT.** It shall be unlawful for any person to: intentionally engage in conduct which would constitute a crime if the attendant circumstances were as he believes them to be; Or, intentionally engage in conduct which, under the circumstances as he believes them to be, constitutes a substantial step in the course of conduct intended to culminate in his commission of the crime. When causing a particular result is an element of the crime, a person shall be guilty of an attempt to commit the crime if, acting with the state of mind required to establish liability with respect to the attendant circumstances specified in the definition of the crime, he intentionally engages in conduct which is a substantial step in a course of conduct intended or known to cause such a result; provided, that conduct shall not be considered a substantial step under this section unless it is strongly corroborative of the defendant's criminal intent. (Ref. 28-201 RS Neb.)

**§6-302**        **MISDEMEANORS; AIDING AND ABETTING.** *Any person who aids, abets, procures, or causes another to commit any offense may be prosecuted and punished as if he were the principal offender. (Ref. 28-206 RS Neb.)*

**§6-303**        **MISDEMEANORS; MOTOR VEHICLE HOMICIDE.** Any person who causes the death of another unintentionally while engaged in the operation of a motor vehicle in violation of the law of the State of Nebraska or in violation of any Municipal ordinance commits motor vehicle homicide. (Ref. 28-306(1)(2) RS Neb.) (Class 1)

**§6-304**        **MISDEMEANORS; ASSAULT IN THE THIRD DEGREE.** *It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury to another person; or threaten another in a menacing manner. It shall further be unlawful for any person to commit the above act in a fight or scuffle entered into by mutual consent. (Ref. 28-310 RS Neb.) (Class 1 or 2)*

**§6-305**        **MISDEMEANOR; FALSE IMPRISONMENT IN THE SECOND DEGREE.** *It shall be unlawful for any person to*

*knowingly restrain another person without legal authority. (Ref. 28-315(1) RS Neb.) (Class 1)*

**§6-306**      **MISDEMEANORS; SEXUAL ASSAULT IN THE THIRD DEGREE.** It shall be unlawful for any person to subject another person to sexual contact and (a) overcome the victim by force, threat of force, express or implied, coercion, or deception, or (b) know or should know that the victim is physically or mentally incapable of resisting or appraising the nature of his or her conduct; provided, the actor shall not cause serious personal injury to the victim. (Ref. 28-320(1)(3) RS Neb.) (Class 1)

**§6-307**      **MISDEMEANORS; POSSESSION OF MARIJUANA.** It shall be unlawful for any person to knowingly or intentionally possess any quantity of marijuana, one (1) pound or less. (Ref. 28-416(4) (6) RS Neb.) (Infraction and Class 3A or 4)

**§6-308**      **MISDEMEANORS; UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE.** It shall be unlawful for any person to be under the influence of any controlled substance for a purpose other than the treatment of a sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings. (Ref. 28-417(1)(i)(2) RS Neb.) (Class 3)

**§6-309**      **MISDEMEANORS; INHALING OR DRINKING, SELLING AND OFFERING FOR SALE CERTAIN COMPOUNDS.** No person shall induce or entice any person to breathe, inhale or drink any compound, liquid or chemical containing the substances described in section 28-419 RS Neb., as amended, for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis, inebriation, excitement or irrational behavior, or in any manner changing, distorting or disturbing the auditory, visual, mental or nervous processes.

Nor shall any person knowingly sell or offer for sale, deliver or give to any person any compound, liquid or chemical or any other substance which will induce an intoxicated condition as described above, when the seller, offerer, or deliverer knows or has reason to know that such compound is intended for use to induce such condition. (Ref. 28-419, 28-420, 28-423, 28-424 RS Neb.) (Class 3)

**§6-310**      **MISDEMEANORS; DRUG PARAPHERNALIA, USE.** It shall be unlawful for any person to use, or to possess with

*intent to use, drug paraphernalia, as defined in section 28-439 RS Neb., to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. (Ref. 28-441 RS Neb.) (Infraction)*

**§6-311** **MISDEMEANORS; DRUG PARAPHERNALIA, DELIVERY.** *It shall be unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, as defined in section 28-439 RS Neb., knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, inject, ingest, inhale, or otherwise be used to introduce into the human body a controlled substance. (Ref. 28-442 RS Neb.) (Class 2)*

**§6-312** **MISDEMEANORS; DRUG PARAPHERNALIA, DELIVERY TO MINORS.** *It shall be unlawful for any person eighteen (18) years of age or older to violate section 6-311 by delivering drug paraphernalia, as defined in section 28-439 RS Neb., to any person under eighteen (18) years of age who is at least three (3) years his or her junior. (Ref. 28-442 RS Neb.) (Class 1)*

**§6-313** **MISDEMEANORS; DRUG PARAPHERNALIA, ADVERTISEMENT.** *It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia, as defined in section 28-439 RS Neb. (Ref. 28-443 RS Neb.) (Class 3)*

**§6-314** **MISDEMEANORS; ARSON IN THE THIRD DEGREE.** *It shall be unlawful for any person to intentionally set fire to, burn, cause to be burned, or by the use of any explosive, damage or destroy, or cause to be damaged or destroyed, any property of another without his consent, other than a building or occupied structure; provided, that the damages do not exceed one hundred (\$100.00) dollars. (Ref. 28-504(1)(3) RS Neb.) (Class 1)*

**§6-315** **MISDEMEANORS; THEFT.** *The terms and definitions applied in this section shall be in conformance with section 28-509 RS Neb. It shall be unlawful for any person to:*

- A. *Take or exercise control over movable property of another with the intent to deprive him thereof; or*
- B. *Transfer immovable property of another or any interest therein with the intent to benefit himself or another not entitled thereto; or*
- C. *Fail to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement, if done with intent to deprive, and if such lessee has been mailed notice by certified mail that such lease or rental agreement has expired and he has failed within ten (10) days after such notice to return such property; or*
- D. *Obtain the property of another by deception, as defined by section 28-512 RS Neb; or*
- E. *Obtain the property of another by threatening to:*
  - 1. *Inflict bodily injury on anyone or commit any other criminal offense; or*
  - 2. *Accuse anyone of a criminal offense; or*
  - 3. *Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or*
  - 4. *Take or withhold action as an official, or cause an official to take or withhold action; or*
  - 5. *Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or*
  - 6. *Testify or provide information or withhold testimony or information with respect to another's claim or defense. It is an affirmative defense to prosecution based on subdivision 2, 3, or 4 of the above subsection, that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which such accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services; or*
- F. *Come into control of property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient if, with intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it; or*
- G. *Obtain services which he knows are available only for compensation, by deception or threat, or by false token or other means to avoid payment for the service; or*
- H. *Have control over the disposition of services of others, to which he is not entitled, and diverts such services to his own benefit or to the*

*benefit of another not entitled thereto; or*

- I. Make, possess, sell, give, transfer, offer for sale or advertise for sale any device, instrument, apparatus or equipment designed or which can be used to obtain telecommunications service fraudulently or to conceal from any supplier or telecommunications service or from any lawful authority the existence or place of origin or of destination of any telecommunication; or*
- J. Receive, retain or dispose of movable property to another knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained or disposed with intention to restore it to the owner;*

*Provided that the value of the thing involved is under three hundred (\$300.00) dollars. (Ref. 28-509 through 28-515, 28-517 RS Neb) (Class 1 or 2)*

**§6-316 MISDEMEANORS; UNAUTHORIZED USE OF A PROPELLED VEHICLE.** *It shall be unlawful for any person to intentionally exert unauthorized control over another's propelled vehicle by operating the same without the owner's consent. Propelled vehicle shall mean and include an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle. It shall be an affirmative defense to a prosecution under this section that the defendant reasonably believed that the owner would have authorized the use had he known of it. (Ref. 28-516 RS Neb.) (Class 1 or 2)*

**§6-317 MISDEMEANORS; CRIMINAL MISCHIEF.** *It shall be unlawful for any person to damage property or another intentionally or recklessly; or intentionally or recklessly tamper with property of another so as to endanger person or property; or intentionally or maliciously cause another to suffer pecuniary loss by deception or threat; provided, that the value of the property involved is under three hundred (\$300.00) dollars. (Ref. 28-519 RS Neb.) (Class 2 or 3)*

**§6-318 MISDEMEANORS; CRIMINAL TRESPASS.** *It shall be unlawful for any person, knowing that he is not licensed or privileged to do so, to:*

- A. Enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or*
- B. Enter or remain in any place as to which notice against trespass is*

given by:

1. *Actual communication to the actor; or*
2. *Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or*
3. *Fencing or other enclosure manifestly designed to exclude intruders. (Ref. 28-520, 28-521 RS Neb.)(Class 1, 2 or 3)*

**§6-319 MISDEMEANORS; FORGERY IN THE SECOND DEGREE.** *It shall be unlawful for any person to, with intent to deceive or harm, falsely make, complete, endorse, alter or utter any written instrument which is or purports to be, or which is calculated to become or to represent if completed, a written instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; provided, that the face value of proceeds is seventy-five (\$75.00) dollars or less. (Ref. 28-603(1)(4) RS Neb.) (Class 1)*

**§6-320 MISDEMEANORS; CRIMINAL POSSESSION OF A FORGED INSTRUMENT.** *It shall be unlawful for any person to possess any forged instrument covered by section 6-319 with knowledge that it is forged and with intent to deceive or harm another; provided, that the face value of the forged instrument is less than three hundred (\$300.00) dollars. (Ref. 28-604(1)(4)(5) RS Neb.)(Class 1 or 2)*

**§6-321 MISDEMEANORS; CRIMINAL SIMULATION.** *It shall be unlawful for any person, with intent to deceive or harm, to make, alter or represent an object in such fashion that it appears to have an antiquity, rarity, source or authorship, ingredient or composition which it does not in fact have; or, with knowledge of its true character and with intent to use it to deceive or harm, to utter, misrepresent or possess any object so simulated. (Ref. 28-606 RS Neb.) (Class 3)*

**§6-322 MISDEMEANORS; MAKING, USING OR UTTERING SLUGS.** *It shall be unlawful for any person to make, use or utter a slug or slugs with intent to deprive a supplier of property or service sold or offered by means of a coin machine or with knowledge that he is facilitating such a deprivation by another person. (Ref. 28-607 RS Neb.)(Class 1 or 2)*

**§6-323 MISDEMEANORS; CRIMINAL IMPERSONATION.**

*It shall be unlawful for any person to:*

- A. *Assume a false identity and do any act in his assumed character with intent to gain a pecuniary benefit for himself or another, or to deceive or harm another; or*
- B. *Pretend to be a representative of some person or organization and to do any act in his pretended capacity with the intent to gain a pecuniary benefit for himself or another, and to deceive or harm another; or*
- C. *Carry on any profession, business, or any other occupation without a license, certificate, or other authorization required by law.*  
*(Ref. 28-607 RS Neb.)(Class 2)*

**§6-324 MISDEMEANOR; IMPERSONATING A PUBLIC SERVANT.** *It shall be unlawful for any person to falsely 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.)(Class 3)*

**§6-325 MISDEMEANORS; 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.)(Class 1)*

**§6-326 MISDEMEANORS; PROSTITUTION.** *It shall be unlawful for any person to perform, offer or agree to perform any act of sexual penetration, as defined in Subdivision (5) of section 28-318 RS Neb., with any person not his spouse in exchange for money or other thing of value. (Ref. 28-801 RS Neb.)(Class 5 - citation in lieu of arrest)*

**§6-327 MISDEMEANORS; KEEPING A PLACE OF PROSTITUTION.** *Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who knowingly grants or permits the use of such place for the purpose of prostitution commits the offense of keeping a place of prostitution. (Ref. 28-804 RS Neb.)(Class 1)*

**§6-328 MISDEMEANORS; DEBAUCHING A MINOR.** *It shall be unlawful for any person, not a minor, to debauch or deprave the morals of any boy or girl under the age of seventeen (17) years by:*

- A. *Lewdly inducing such boy or girl carnally to know any other person; or*
  - B. *Soliciting any such boy or girl to visit a house of prostitution or other place where prostitution, debauchery, or other immoral practices are permitted or encouraged, for the purpose of prostitution or sexual penetration; or*
  - C. *Arranging or assisting in arranging any meeting for such purpose between any such boy or girl and any female or male of dissolute character or any inmate of any place where prostitution, debauchery, or other immoral practices are permitted or encouraged; or*
  - D. *Arranging or aiding or assisting in arranging any meeting between any such boy or girl and any other person for the purpose of sexual penetration.*
- (Ref. 28-805 RS Neb.)(Class 1)

**§6-329**        **MISDEMEANORS; PUBLIC INDECENCY.** *It shall be unlawful for any person, eighteen (18) years of age or over, to perform or procure or assist 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 by Subdivision (5) of section 28-318 RS Neb.; or*
  - 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.)(Class 2)

**§6-330**        **MISDEMEANORS; INDECENCY WITH AN ANIMAL.** *It shall be unlawful for any person to subject an animal to sexual penetration as defined in Subdivision (5) of section 28-318 RS Neb. (Ref. 28-1003 RS Neb.)(Class 3)*

**§6-331**        **MISDEMEANORS; REFUSING TO AID A PEACE OFFICER.** *It shall be unlawful for any person, upon a request by a person known to him to be a peace officer, to unreasonably refuse or fail to aid such peace officer in:*

- A. *Apprehending any person charged with or convicted of any offense against any of the laws of this state; or*
  - B. *Securing such offender when apprehended; or*
  - C. *Conveying such offender to the jail of the county.*
- (Ref. 28-903 RS Neb.) (Class 2)



**§6-332** **MISDEMEANORS; RESISTING ARREST.** *It shall be unlawful for any person to intentionally prevent or attempt to prevent a peace officer, acting under color of his official authority, from effecting an arrest on said person or on another, by:*

- A. *Using or threatening to use physical force or violence against the peace officer of another; or*
- B. *Using any other means which creates a substantial risk of causing physical injury to the peace officer or another; or*
- C. *Employing means which require substantial force to overcome resistance to effecting the arrest;*

*Provided, that this section shall apply only to those actions taken to resist arrest without the use of a deadly or dangerous weapon.*

*It is an affirmative defense to prosecution under this section if the peace officer involved was out of uniform and did not identify himself as a peace officer by showing his credentials to the person whose arrest is attempted. (Ref. 28-904 RS Neb.)(Class 1)*

**§6-333** **MISDEMEANORS; OPERATION OF A MOTOR VEHICLE TO AVOID ARREST.** *It shall be unlawful for any person to operate any motor vehicle to flee in such vehicle in an effort to avoid arrest or citation for the violation of any law of the State of Nebraska constituting a misdemeanor, infraction, traffic infraction, or any Municipal ordinance, except nonmoving traffic violations. (Ref. 28-905(1)(3) RS Neb.) (Class 3)*

**§6-334** **MISDEMEANORS; OBSTRUCTING A PEACE OFFICER.** *It shall be unlawful for any person, to use or threaten to use violence, force, physical interference, or obstacle, to intentionally obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of his official authority. (Ref. 28-906 RS Neb.)(Class 1)*

**§6-335** **MISDEMEANORS; FALSE REPORTING.** *It shall be unlawful for any person to:*

- A. *Furnish information he knows to be false to any peace officer or other official with the intent to instigate an investigation or an alleged criminal matter or impede the investigation of an actual criminal matter; or*
- B. *Furnish information he knows to be false alleging the existence of an*

emergency in which human life or property are in jeopardy to any hospital, ambulance company, or other person or governmental agency which deals with emergencies involving danger to life or property; or

- C. Furnish any information he knows to be false concerning the location of any explosive in any building or other property to any person.  
(Ref. 28-907 RS Neb.)(Class 1)

**§6-336**        **MISDEMEANORS; INTERFERING WITH A FIREMAN.** A person commits the offense of interfering with a fireman if at any time and place where any fireman is discharging or attempting to discharge any official duties, he willfully:

- A. Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty; or
- B. Disobey the lawful orders given by any fireman while performing his duties; or
- 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 has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Ref. 28-908 RS Neb.)(Class 1)

**§6-337**        **MISDEMEANORS; PROMOTING GAMBLING.**

It shall be unlawful for any person to:

- A. Engage in bookmaking; or
- B. Receive money in connection with any unlawful gambling scheme; or
- C. Knowingly participate in any unlawful gambling as a player by placing a bet.

(Ref. 28-1101 through 28-1104 RS Neb.)(Class 1, 2, or 4)

**§6-338 MISDEMEANORS; POSSESSION OF A GAMBLING DEVICE.** It shall be unlawful for any person to manufacture, sell, transport, place, possess or conduct or negotiate 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. *(Ref. 28-1107 RS Neb.)*

**§6-339 MISDEMEANORS; DISTURBING THE PEACE.** It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. *(Ref. 28-1322 RS Neb.)*

**§6-340 MISDEMEANORS; STORAGE OF DISMANTLED, WRECKED, JUNKED AND INOPERABLE MOTOR VEHICLES AS NUISANCE.** (1) It is expressly found and determined that the storage or accumulation of dismantled, partially dismantled, wrecked, junked, inoperable, or unlicensed motor vehicles left upon private property, in places other than junk yards or other appropriate areas, tends to interfere with the enjoyment of property, reduce the value of private property, and invite plundering and vandalism, create fire hazards, extend and aggravate urban blight, and result in a serious hazard to the public health, safety, comfort, convenience, welfare and happiness of the residents of the City and is hereby declared to be a nuisance. No person shall park, store, leave, or permit the parking, storing or leaving of any motor vehicle of any kind which is dismantled, partially dismantled, wrecked, junked, inoperable, or unlicensed for a period of time in excess of fifteen (15) days; provided, this section shall not apply to any vehicle located on private property within an enclosed building, or to any vehicle held in connection with a business enterprise lawfully operated within the City.

(2) The following words and phrases shall have the meaning respectively ascribed to them by this section:

(a) Motor vehicle is any vehicle which is designed to travel along the ground and shall include, but not be limited to automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go carts, golf carts, campers and trailers.

(b) Junked motor vehicle is any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates, and the condition of which is wrecked, dismantled, partially dismantled, inoperable, abandoned or discarded.

(c) Inoperable motor vehicle shall mean a motor vehicle which cannot be started and driven.

(3) (a) Whenever any lot owner, or owner of any tract of land, or occupant of a lot or tract of land, permits a nuisance to exist, such owner and any occupant shall be notified of the existence of such nuisance by the Utility Superintendent, and if the nuisance is not abated within five (5) days from the service of the notice, the owner or occupant shall be guilty of creating a nuisance. The notice may be served by personally handing a copy thereof to each owner, or owner's duly authorized agent and to the occupant, or by leaving said notice at his usual place of residence, or in the event the owner is a nonresident of the City, and his residence is known, notice may be served upon him by certified mail. Service of notice by certified mail shall be deemed complete when the notice is delivered to the owner by the United States mail.

(b) Upon the failure of the owner or occupant to so abate the nuisance within five (5) days of notice being given, in addition to or in lieu of filing charges for violation of this Chapter, the local law enforcement authority or the Utility Superintendent may cause any junked motor vehicle to be towed from the property, at the expense of the owner of said motor vehicle. The Utility Superintendent or local law enforcement authority shall make a reasonable effort to contact the owner of the towed vehicle by sending a notice to the registered owner, if known; by sending an inquiry to the county it is registered in if the owner is unknown; or by contacting the Director of Motor Vehicles if the vehicle is without license plates and the owner is unknown. If notified by the Director of Motor Vehicles that a lien or mortgage exists on said vehicle, 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. If the owner, lienholder or mortgagee is known and does not claim the vehicle within five (5) days after the date when the notice was mailed, or upon receiving word from the Director of Motor Vehicles that the owner is

unknown, title will immediately vest in the Municipality and the vehicle may be sold. Any proceeds from the sale of the vehicle less any expenses incurred by the Municipality in such removal, storage and sale shall be held without interest in a separate account for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund. (*Amended by Ord. Nos. 338, 8/1/90; 352, 7/1/92; 98-3, 5/6/98*)

**§6-341 MISDEMEANORS; PROHIBITED FENCES.** It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where such fence abuts a public sidewalk, street or alley. (*Ref. 18-1720, 28-1321, 39-705 RS Neb.*)

**§6-342 MISDEMEANORS; APPLIANCES IN YARD.** It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless he shall first remove all doors and make the same reasonably safe. (*Ref. 18-1720, 28-1321 RS Neb.*)

**§6-343 MISDEMEANORS; WEED REMOVAL.** It shall be the duty of every owner of real estate in the Municipality to cut and clear such real estate, together with one-half (½) of the streets and alleys abutting thereon, of all weeds and worthless vegetation that are noxious, obstruct travel on public ways, or create a fire or health hazard. Such weeds and worthless vegetation shall be cut so as not to extend more than eight inches (8") above the ground. Subsequent to the cutting of the said weeds, all loose vegetation shall be immediately removed. Upon the failure of the owner, lessee, or occupant having control of any such real estate to cut and clear the said weeds and worthless vegetation as set forth hereinbefore, the Street Superintendent shall serve notice on the said owner, lessee, or occupant to do so. In the event that the weeds and vegetation have not

been removed after a period of five (5) days, the Governing Body may order the same to be done under the direction of the Street Superintendent, and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the Municipality after being properly billed, the cost may be assessed against the real estate and the Governing Body shall have the assessment certified to the County Treasurer and the same shall be collected in the manner provided by law. In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (*Ref. 17-563.01, 18-1719, 18-1720, 28-1321 RS Neb.*)

**§6-344 MISDEMEANORS; WEEDS, GRASSES, OR WORTHLESS VEGETATION.**

(1) It shall be a nuisance for the owner or occupant of any lot or piece of ground within the City limits to permit or maintain any growth of twelve (12) inches or more in height of weeds, grasses, or worthless vegetation thereon.

(2) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of a Class V misdemeanor.

(3) In lieu of or in addition to proceeding under paragraph (2) herein, the City may proceed in the following manner. Upon notification by the Board of Health to the City Council of a violation of paragraph (1), notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the City or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Said notice shall advise the

person upon whom notice was served of said person's right to a hearing before the City Council. The owner and/or occupant shall have five (5) days from the receipt of notice to request a hearing. The notice shall state the time and place of hearing should the request for a hearing be timely made, but in no case shall said hearing be set for less than ten (10) days from the date of notice. Within five (5) days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the City Council or fails to comply with the order to abate and remove the nuisance, the City may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two (2) months after such work is done, the City may either:

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

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

(4) If a hearing is requested, upon the date fixed for the hearing pursuant to notice, the City Council shall hear all objections made by interested parties and shall hear evidence submitted by the City. If after consideration of all the evidence, the City Council shall find that said condition is a public nuisance, the City Council shall, by resolution, order and direct the owner or occupant to remedy the nuisance within fourteen (14) days; provided, the party or parties subject to said order may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the City Council shall be stayed.

(5) For purposes of this section WEEDS includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or

musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*). (*Ref. 17-563(2) RS Neb.*) (*Ord. No. 10-2007, 7/11/07*) (*Amended by Ord. No. 9-2008, 9/10/08; Ord. No. 9-2008, 9/10/08*)

**§6-345 MISDEMEANORS; RADIO 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 a misdemeanor. (*Ref. 18-1720, 28-1321 RS Neb.*)

**§6-346 MISDEMEANORS; RAISING OR PRODUCING STAGNANT WATER.** It shall be unlawful for any person to build, erect, continue or keep up any dam or other obstruction in any river or stream of water in this state and thereby raise an artificial pond, or



produce stagnant waters, which shall be manifestly injurious to the public health and safety. *(Ref. 28-1303 RS Neb.)*

**§6-347 MISDEMEANORS; PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK OR STREAM.**

It shall be unlawful for any person to 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. *(Ref. 28-1304 RS Neb.)*

**§6-348 MISDEMEANORS; EXPOSING OFFENSIVE MATTER.**

It shall be unlawful for any person to put the carcass of any dead animal or the offals from any slaughterhouse or packing house, or any spoiled meats or spoiled fish, or any putrid animal substance or the contents of any privy vault upon or into any river, bay, creek, pond, canal, road, street, alley, lot, field, meadow, public ground, market space or common; or whoever, being the owner or owners, occupant or occupants thereof, to knowingly permit the same to remain in any of the aforesaid situations, to the annoyance of the citizens of the Municipality. It shall further be unlawful for any person to neglect or refuse to remove or abate the nuisance occasioned thereby within twenty-four (24) hours after knowledge of the existence of such nuisance upon any of the above described premises owned or occupied by him, her or them, or after notice in writing from the Municipal Board of Health. *(Ref. 28-1305 RS Neb.)(Class 5)*

**§6-349 MISDEMEANORS; WATERING LIVESTOCK AT A PRIVATE TANK.**

It shall be unlawful for any person to water livestock at any watering troughs or tanks belonging to any private owner without the consent of such owner. *(Ref. 28-1305 RS Neb.)(Class 5)*

**§6-350 MISDEMEANORS; DISCHARGE OF FIREARMS.**

It shall be unlawful for any person, except an officer of the law in the discharge of his official duty, to fire or discharge any gun, pistol, or

other fowling piece within the Municipality; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Governing Body. (*Ref. 17-556 RS Neb.*) (*Class 5*)

**§6-351 MISDEMEANORS; UNLAWFUL POSSESSION OF A REVOLVER.** It shall be unlawful for any person under the age of eighteen (18) years to possess a pistol, revolver or any other form of short-barreled hand firearm; provided, that it shall be lawful to possess a pistol, revolver or short-barreled firearm for instruction under the immediate supervision of a parent, guardian or adult instructor. (*Ref. 28-1204 RS Neb.*) (*Class 3*)

**§6-352 MISDEMEANORS; SLINGSHOTS, AIR GUNS, BB GUNS.** It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the Municipality. (*Ref. 17-556 RS Neb.*) (*Class 5*)

**§6-353 MISDEMEANORS; DISCHARGING A FIRE ARM OR WEAPON FROM ANY PUBLIC HIGHWAY, ROAD OR BRIDGE.** It shall be unlawful for any person to discharge any firearm or weapon using any form of compressed gas as a propellant from any public highway, road or bridge in this State. (*Ref. 28-1335 RS Neb.*)(*Class 3*)

**§6-354 MISDEMEANORS: INJURY TO TREES.** It shall be unlawful for any person to purposely or carelessly, and without lawful authority, 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 them, shall make an application to the Governing Body to do so, and the written permit of the Governing Body 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. (*Ref. 17-555, 18-806, 28-519 RS Neb.*)(Class 2 or 3)

**§6-355 MISDEMEANORS; LITTERING.** Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property, or in any waters, commits the offense of littering unless:

- A. Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or
- B. The litter is placed in a receptacle or container installed on such property for such purpose.

The term litter as used in this section means all rubbish, refuse, waste material, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description, but does not include the waste or primary process of farming or manufacturing.

Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or water craft commits the offense of littering. (*Ref. 17-123.01, 28-523 RS Neb.*)

**§6-356 MISDEMEANORS; POSTING.** It shall be unlawful for any person, firm or corporation to use the streets, sidewalks or public grounds of the Municipality for signs, signposts, the posting of handbills or advertisements, without written permission of the Governing Body. (*Ref. 17-140, 17-207 RS Neb.*)

**§6-357 MISDEMEANORS; SOLICITING ALMS.** It is hereby declared unlawful for any person to solicit upon the public streets or in any private residences alms, gifts, or contributions for private benefit unless the person so soliciting shall have first secured a permit from the Municipal Clerk authorizing him to conduct such operations within the corporate limits. (*Ref. 17-556 RS Neb.*)

**§6-358 MISDEMEANORS; DISORDERLY CONDUCT.** It shall be unlawful for any person to engage in conduct or behavior which disturb the peace and good order of the Municipality by clamor or noise, intoxication, drunkenness, fighting, using of obscene or profane language in the streets or other public places, or is otherwise indecent or disorderly conduct or lewd or lascivious behavior. *(Ref. 17-129, 17-556 RS Neb.)*

**§6-359 MISDEMEANORS; STREET GAMES.** It shall be unlawful for any person to play catch, bat a ball, kick or throw a football, or to engage in any exercise or sport upon the Municipal streets and sidewalks. Nothing herein shall be construed to prohibit or prevent the Governing Body 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. *(Ref. 17-142, 17-557 RS Neb.)*

**§6-360 MISDEMEANORS; OBSTRUCTION OF PUBLIC WAYS.** It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to, or inconsistent with, the public use of the same. *(Ref. 17-142, 17-555, 17-557, 39-703, 39-704 RS Neb.)*

**§6-361 MISDEMEANORS; OBSTRUCTING WATER FLOW.**

(1) It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant.

(2) Because grass clippings which wash into the storm sewers of the Municipality plug up and otherwise restrict the free flow of water into and through the City's storm sewers, it shall be unlawful for any person to leave, for a period of more than two (2) hours, in the streets or gutters of the City or its subdivisions, any grass clippings or other clippings from the trimming, mowing, or manicuring of any yard or hedge within the City or its subdivisions. *(Ref. 17-555, 17-970 RS Neb.) (Amended by Ord. No. 376, 6/1/94)*

**§6-362 MISDEMEANORS; CURFEW.** It shall be unlawful for any minor under the age of eighteen (18) years to ride in or operate any vehicle in or upon any street, alley, or other public place, or to loiter, wander, stroll, loaf, or play in or upon any of the streets, alleys, or other public places between the hours of ten (10:00) o'clock P.M. and six (6:00) o'clock A.M., Sunday through Thursday, and between the hours of twelve (12:00) o'clock A.M. and six (6:00) o'clock A.M., Friday and Saturday, unless accompanied by a parent, guardian or other adult person having the care, custody or control of said minor, or the minor is engaged in lawful employment or is on an emergency errand; provided, when a school activity terminates after, or less than one (1) hour prior to ten (10:00) o'clock P.M. (Sunday through Thursday) or less than one (1) hour prior to twelve (12:00) o'clock A.M. (Friday and Saturday), the curfew shall commence one (1) hour after the termination of such activity. *(Amended by Ord. No. 14-2005, 10/12/05)*

**§6-363 MISDEMEANORS; LOITERING AND VAGRANTS.**

It shall be unlawful for any person to loiter on the streets, in the park, on the sidewalk, or on any other public ways and property at unreasonable hours, and those persons who are unable to give a good and satisfactory reason why they

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should be there, including all vagrants and persons found without means of support or some legitimate business, shall be deemed to be guilty of loitering. (Ref. 17-556 RS Neb.)

**§6-364 MISDEMEANORS; TOBACCO, USE BY MINORS.** It shall be unlawful for any person under the age of eighteen (18) years to smoke cigarettes or cigars, or to use tobacco in any form whatever. Any minor so charged with the violation of this section may be free from prosecution when he shall have furnished evidence for the conviction of the person or persons selling or giving him the cigarettes, cigars or tobacco. (Ref. 28-1418 RS Neb.)

**§6-365 MISDEMEANORS; TOBACCO, SALE TO MINORS.** It shall be unlawful for any person to 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. (Ref. 28-1419 RS Neb.)

**§6-366 MISDEMEANORS; SALE OF TOBACCO WITHOUT A LICENSE.** It shall be unlawful for any person, firm or corporation to sell, keep for sale, or give away in course of trade any cigars, tobacco, cigarettes or cigarette materials, to anyone, without first obtaining a license from the Municipal Clerk. (Ref. 28-1420 RS Neb.)

**§6-367 MISDEMEANORS; MISREPRESENTING AGE TO OBTAIN TOBACCO.** It shall be unlawful for any person under the age of eighteen (18) years to obtain cigars, tobacco, cigarettes or cigarette material by misrepresenting his age. (Ref. 28-1427 RS Neb.)

**§6-368 MISDEMEANORS; SMOKING IN PROHIBITED AREAS.** No person shall smoke in a public place or at a public meeting except in designated smoking areas; provided, this prohibition shall not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of such room or hall. (Ref. 71-5707, 71-5712 RS Neb.)

**§6-369 MISDEMEANORS; MISREPRESENTATION BY MINOR.** It shall be unlawful for any minor, as defined by section 53-102 RS Neb., to 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. 53-102, 53-180.01, 53-180.05 RS Neb.)

**§6-370**        **MISDEMEANORS; MINOR IN POSSESSION.** It shall be unlawful for any minor, as defined by section 53-102 RS Neb. to transport, knowingly possess, or have under his control in any motor vehicle, beer or other alcoholic liquor on any public street, alley, roadway, or property owned by the State of Nebraska or any subdivision thereof, or any other place within the Municipal limits. (Ref. 53-102, 53-180.02, 53-180.05 RS Neb.)

**§6-371**        **MISDEMEANORS; DRINKING IN PUBLIC.** It shall be unlawful for any person to consume alcoholic beverages in the public streets, alleys, roads, highways, or upon any property owned by the Municipality or other governmental subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways, in theaters, dance halls, or any other place open to the public; provided, the provisions of this section shall not apply to liquor establishments licensed by the State of Nebraska. (Ref. 53-186, 53-1,100 RS Neb.)

**§6-372**        **MISDEMEANORS; FIRE EQUIPMENT.** It shall be unlawful for any person who is not an active member of the Municipal Fire Department to deface, destroy, handle, or loiter about the equipment and property of the Fire Department. (Ref. 28-519 RS Neb.)

**§6-373**        **MISDEMEANORS; FIRE HOSE.** It shall be unlawful for any person, without the consent of the Fire Chief, or the Assistant Fire Chief to drive any vehicle over the unprotected hose of the Fire Department at any time. (Ref. 39-682 RS Neb.)

**§6-374**        **MISDEMEANORS; PRIZE FIGHTS.** It shall be unlawful for any person within the Municipality to sponsor, or engage in any fight by agreement either as principal or second; provided, nothing herein shall be construed to prohibit boxing exhibitions duly licensed by the State of Nebraska. (Ref. 81-8,129, 81-8,142 RS Neb.)

**§6-375**        **MISDEMEANORS; GASOLINE CONTAINERS.** Every person within this State retailing gasoline, benzene, kerosene or other high explosives of that nature in less than carload lots shall deliver the same to the purchases in barrels, casks, packages or cans painted



vermilion red, and having the word gasoline, benzene, kerosene or whatever name such explosive is known by plainly printed thereon in English. Also, every person within this State purchasing the previously named explosives for his own use shall procure and keep the same only in barrels, casks, packages or cans painted and stamped as required above. (Ref. 66-103 through 66-107 RS Neb)

**§6-376 MISDEMEANORS; HITCHING RIDES.** It shall be unlawful for any person to be found soliciting trucks, automobiles, or other vehicles to stop or slow down for the purpose of asking for a ride, or riding on the said vehicle. (Ref. 39-647, 39-6,113 RS Neb.)

**§6-377 MISDEMEANORS; ABANDONED AUTOMOBILES.** It shall be unlawful to abandon any automobile on the Municipal Streets, highways, alleys, parks or other property. An automobile shall be deemed to be abandoned if left unattended:

- A. With no number plates affixed thereto, for more than six (6) hours on any public property; or,
- B. For more than twenty-four (24) hours on any public property, except a portion thereof on which parking is legally permitted; or,
- C. For more than forty-eight (48) hours, after the parking of such vehicle shall have become illegal, if left on a portion of a public property on which parking is legally permitted; or,
- D. For more than seven (7) days on private property if left initially without permission of the owner, or after permission of the owner shall be terminated.

The title to any automobile so abandoned which at the time of such abandonment, has no number plates of the current year affixed and is of a wholesale value, taking into consideration the condition of such vehicle, of one hundred (\$100.00) dollars or less, shall immediately vest in the Municipality. In the event the automobile is licensed for the current year or is of a wholesale value of over one hundred (\$100.00) dollars, the Municipal Police shall make a reasonable effort to contact the owner of the said automobile by sending a notice to the registered owner, if known; by sending an inquiry to the county it is registered in, if the owner is unknown; or by contacting the Director of Motor Vehicles, if the car is without license plates and the owner is unknown. If notified by the Director of Motor Vehicles that a lien or mortgage exists on said vehicle, 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. If the owner, lienholder or mortgagee, is known and does not claim the automobile within five (5) days after the date when the notice was mailed, or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the Municipality and the automobile may be sold. Any proceeds from the sale of the automobile less any expenses incurred by the Municipality in such removal, storage and sale shall be held without interest in a separate account for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund.

For purposes of this section, public property shall mean any public right-of-way, street, highway, alley, park or other state, county or municipally-owned property; and private property shall mean any privately-owned property which is not included within the definition of public property.

Any person who abandons an automobile as hereinbefore defined shall be deemed to be guilty of a misdemeanor. (Ref. 60-1901 through 60-1911 RS Neb.)

**§6-378 MISDEMEANORS; COLLECTION OF TAXES, REAL ESTATE, BONDED INDEBTEDNESS, DESTRUCTION OR REMOVAL OF BUILDINGS.** Except in any Municipality which has adopted a building code with provisions for demolition of unsafe buildings or structures, it shall be unlawful for

any person to tear down or remove any building situated on any real estate while there are any delinquent taxes unpaid thereon, or to remove any building situated within the corporate limits of any city or village which has an unpaid bonded indebtedness or which city or village is a part of or all of a school district which has such bonded indebtedness, to a point outside of such Municipality, without paying to the County Treasurer, to be deposited by said Treasurer in the bond sinking fund of said Municipality, school district or Municipality and school district, as the case may be, an amount that bears the same proportion to the total outstanding bonded indebtedness of such Municipality, if such Municipality has such bonded indebtedness, as the assessed valuation for the preceding calendar year of the building sought to be removed bears to the total assessed valuation of all taxable property in such Municipality for the preceding calendar year or, if such school district has such outstanding bonded indebtedness, an amount which is a similar proportion of the assessed valuation of such building sought to be removed to the total outstanding bonded indebtedness of such school district, or both such amounts, as the case may be. Any person so offending shall be guilty of a Class 5 misdemeanor, and shall moreover be liable to the County, to be recovered in a civil action, for the amount of all delinquent taxes on such real estate and to such Municipality for the amount of said proportion of any outstanding bonded indebtedness of such Municipality to be recovered in the name of such Municipality and also to such school district for the amount of said proportion of any outstanding bonded indebtedness of such school district to be covered in the name of such school district; provided, such action may be brought in the name of such County, Municipality or school district for such delinquent taxes and also for such proportion or proportions, if the one bringing such action has an interest in any of such taxes or amounts, for the benefit of all those interested in the same. Such proportion of such indebtedness, in either or all of such cases is hereby made and shall be a lien upon such building so removed from such Municipality and said lien and the lien of such taxes shall follow and adhere to such building or the materials thereof wherever situated, or into whatever form the same may be converted. (*Ref. 77-1725 RS Neb.*)

**§6-379**        **MISDEMEANORS; FAILURE TO OBSERVE A BLIND PERSON.** It shall be unlawful for any person to fail to give special consideration to the bearer of a white cane or the user of a guide dog; and, stop and remain when approaching such bearer until such time as such bearer has safely reached a position will outside the course normally used by the operator of the vehicle or other conveyance. *(Ref. 28-1314 RS Neb.)*

**§6-380**        **MISDEMEANORS; UNLAWFUL POSSESSION OF EXPLOSIVE MATERIALS IN THE SECOND DEGREE.** It shall be unlawful for any person who is eligible to obtain a permit from the State Fire Marshal, or has a valid or legitimate need for a permit, to possess or store explosive materials without such a permit; provided, this section shall not be applicable to a federal licensee or permittee, or to any person who has obtained a permit from the State Fire Marshal to store or use such explosive materials, or in the case of a business enterprise, a permit to purchase such explosive materials. *(Ref. 28-1215(2), 28-1216 RS Neb.)*

**§6-381**        **MISDEMEANORS; SHOOTING HIGHWAY SIGNS, MARKERS OR NOTICES.** It shall be unlawful for any person to willfully or maliciously shoot upon the public highway and injure, deface, damage or destroy any signs, monuments, road markers, traffic control or surveillance devices or other public notices lawfully placed upon said highways. *(Ref. 39-619.01(1) RS Neb.)*

**§6-382**        **MISDEMEANORS; REMOVAL AND POSSESSION OF HIGHWAY SIGNS, MARKERS OR NOTICES.** It shall be unlawful for any person, other than those authorized to do so, to remove any sign, traffic control or traffic surveillance device placed along a public street, road or highway for traffic control, warning or informational purposes. Moreover, it shall be unlawful for any person to possess such a sign or device which has been removed in violation of this section. *(Ref. 39-619.01(2) RS Neb.)*

**§ 6-383 MISDEMEANORS; SEXUAL PREDATOR RESIDENCY RESTRICTIONS.** (1) Findings and intent. 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.

(a) 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.

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

(2) Definitions. For purposes of this section, the following definitions shall apply.

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

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

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

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

**SEX OFFENDER.** An individual who has been convicted of a crime listed in Ref. 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 a high risk of recidivism as determined by the Nebraska State Patrol under Section 29-4013 RS Neb., and who has victimized a person eighteen (18) years of age or younger.

(3) Sexual predator residency restrictions; penalties; exceptions.

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

(b) 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.

(c) Penalties. A person who violates this section shall be punished as provided in Section 6-401 of Chapter 6, Article 4, of the Municipal Code of Wakefield, Nebraska.

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

1. Resides within a prison or correctional or treatment facility operated by the State or a political subdivision;

2. Established a residence before July 1, 2006, and has not moved from that residence; or

3. 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. 6-2009, 1/13/09)*

## Article 4. Penal Provisions

**§6-401 VIOLATION; PENALTY.** Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction, thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense, recoverable with costs, A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. *(Ref 17-505 RS Neb) (Amended by Ord. No. 7-2009, 11/11/09)*

**§6-402 ABATEMENT OF NUISANCE.** Whenever a nuisance exists as defined in this Chapter, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

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 part of the judgment in the case. *(Ref. 18-1720, 18-1722 RS Neb.)*