

Municipal Code of the City of Battle Creek, Nebraska

CHAPTER 6 – POLICE REGULATIONS

ARTICLE 1 – DOGS AND CATS

- 6-101 DOGS AND CATS; LICENSE
- 6-101.01 DOG GUIDES, HEARING AID DOGS, AND SERVICE DOGS;
EXEMPT FROM LICENSE TAX
- 6-102 LICENSE TAGS
- 6-103 WRONGFUL LICENSING
- 6-104 OWNER DEFINED
- 6-105 DOGS; PROCLAMATION
- 6-106 REPEALED
- 6-107 REPEALED
- 6-108 REPEALED
- 6-109 REPEALED
- 6-110 REPEALED
- 6-111 REPEALED
- 6-112 DOGS; KILLING AND POISONING
- 6-113 DOGS; INTERFERENCE WITH POLICE
- 6-114 ANIMAL SHELTER
- 6-115 DOGS; OFFICER'S COMPENSATION
- 6-116 ANIMALS; RABIES SUSPECTED (MOVED TO 6-219)
- 6-117 DANGEROUS DOGS; DEFINITIONS
- 6-117.01 DANGEROUS DOGS; DOGS PRESUMED DANGEROUS
- 6-118 DANGEROUS DOGS; DECLARED NUISANCE
- 6-119 DANGEROUS DOGS; IMMEDIATE IMPOUNDMENT
- 6-120 DANGEROUS DOGS; FAILURE TO COMPLY
- 6-121 DANGEROUS DOGS; ADDITIONAL REGULATIONS
- 6-122 VIOLATION; PENALTY

ARTICLE 2 – ANIMALS GENERALLY

- 6-201 ANIMALS; RUNNING AT LARGE
- 6-202 CONTROLLED WITHIN CITY
- 6-203 CRUELTY
- 6-204 FOWLS; RUNNING AT LARGE
- 6-205 RIGHT TO IMPOUND
- 6-206 IMPOUNDING
- 6-207 RETURN TO OWNER
- 6-208 POUND ARRANGEMENTS
- 6-209 SUMMARY DISPOSITION
- 6-210 ABANDONMENT, NEGLECT, AND CRUELTY; DEFINITIONS
- 6-211 ABANDONMENT, NEGLECT, AND CRUELTY; LAW ENFORCEMENT
OFFICER; POWERS; IMMUNITY
- 6-212 ABANDONMENT, NEGLECT, AND CRUELTY; PENALTY
- 6-213 PITTING; DEFINITIONS
- 6-214 PITTING; PROHIBITED
- 6-215 PITTING; SPECTATORS PROHIBITED
- 6-216 UNUSUAL ANIMALS PROHIBITED

- 6-217 OFFENSIVE NOISE
- 6-218 LIABILITY OF OWNER
- 6-219 RABIES SUSPECTED
- 6-220 VIOLATION; PENALTY

ARTICLE 3 – MISCELLANEOUS MISDEMEANORS

- 6-301 CRIMINAL CODE INCORPORATED BY REFERENCE
- 6-302 MAINTAINING A NUISANCE
- 6-303 PROHIBITED FENCES
- 6-304 APPLIANCES IN YARD
- 6-305 WEEDS, LITTER, STAGNANT WATER
- 6-306 REPEALED
- 6-307 DISCHARGE OF FIREARMS
- 6-308 SLINGSHOTS, AIR GUNS, BB GUNS
- 6-309 INJURY TO TREES
- 6-310 LITTERING
- 6-311 CURFEW
- 6-312 MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR
- 6-313 ABANDONED AUTOMOBILES
- 6-314 SPITTING
- 6-315 UNNECESSARY NOISE
- 6-316 VIOLENCE ON OR INTERFERENCE WITH A SERVICE DOG
- 6-317 FALSE REPORTING
- 6-318 UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE
- 6-319 CRIMINAL MISCHIEF
- 6-320 THEFT
- 6-321 THEFT OF TELECOMMUNICATIONS SERVICE
- 6-322 CRIMINAL IMPERSONATION
- 6-323 URINATING OR DEFECATING IN PUBLIC

ARTICLE 4 – POLICE OFFICERS’ RULES AND REGULATIONS

- 6-401 ADOPTION OF POLICE REGULATIONS
- 6-402 SALE OF ABANDONED OR SEIZED PERSONAL PROPERTY;
EXCEPTION

ARTICLE 5 – FAILURE TO APPEAR IN COURT

- 6-501 PENALTY

ARTICLE 6 – PENAL PROVISIONS

- 6-601 VIOLATION; PENALTY
- 6-602 ABATEMENT OF NUISANCE

CHAPTER 6 – POLICE REGULATIONS

Article 1 – Dogs and Cats

§6-101 DOGS AND CATS; LICENSE.

(1) Any person who shall own, keep, or harbor a dog over the age of six months or a cat over the age of three months within the City shall within 30 days after acquisition of said dog or cat acquire a license for each such animal annually by or before the first day of May of each year. The license shall be delinquent from and after the first day of May; provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to May 1st of any year shall be liable for the payment of the license fee as set by the City Council and placed on file in the office of the City Clerk for public inspection during office hours. 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 gender of each dog and/or cat owned or kept by him or her. A certificate that the dog or cat has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued by the City Clerk until such rabies certificate is shown.

(2) Dog and cat licenses shall be issued by the City Clerk upon the payment of a license fee for each dog or cat regardless of its gender or whether or not the dog or cat is spayed. Said license fee shall not be transferable and no refund will be allowed in the case of death, sale, or other disposition of the licensed dog or cat. If the dog or cat is not licensed by May 1st of each year or within ten days of the dog or cat being brought into the corporate limits of the City, the license fee for such dog or cat shall be as set by the City Council and placed on file in the office of the City Clerk for public inspection during office hours. It shall be an offense for any person to not license his or her dog or cat as provided by this section. (Ref.17-526, 54-603, 71-4412 RS Neb.) (Am. by Ord. Nos. 2004-004, 3/8/04; 2008-008, 8/11/08)

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

Every dog guide for a blind or visually impaired person, hearing aid dog for a deaf or hearing-impaired person, and service dog for a physically limited person shall be licensed as required by the City Code, but no license tax shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner of the dog shall be liable for the payment of the required license tax. (Ref.54-603 RS Neb.) (Ord No. 98-358, 11/9/98)

§6-102 LICENSE TAGS.

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

§6-103 WRONGFUL LICENSING.

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

§6-104 OWNER DEFINED.

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

§6-105 DOGS; PROCLAMATION.

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

§6-106 through §6-111 (Repealed)

§6-112 DOGS; KILLING AND POISONING.

It shall be unlawful to kill or to administer or cause to be administered poison of any sort to a dog; or in any manner to injure, maim, or destroy or in any manner attempt to injure, maim, or destroy any dog that is the property of another person; or to place any poison or poisoned food where the same is accessible to a dog; provided, this Section shall not apply to Municipal Policemen acting within their power and duty. (Ref. 28-1002 RS Neb.) (Ord. No. 2003-004, 4/7/03)

§6-113 DOGS; INTERFERENCE WITH POLICE.

It shall be unlawful for any person to hinder, delay, or interfere with any Municipal Policeman who is performing any duty enjoined upon him by the provisions of this Article or to break open or in any manner directly or indirectly to aid, counsel, or advise the breaking open of the animal shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of dogs to the shelter. (Ref. 28-906 RS Neb.) (Ord. No. 2003-004, 4/7/03)

§6-114 ANIMAL SHELTER.

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

§6-115 DOGS; OFFICER'S COMPENSATION.

For destroying and burying dogs under the provisions of this Article, the official appointed to destroy said dogs shall be compensated, in addition to his regular salary, for each dog so destroyed and buried. Such amount shall be set by the City Council and filed in the office of the City Clerk for public inspection during office hours. (Ref. 17-526 RS Neb.)

§6-116 ANIMALS; RABIES SUSPECTED. (Moved to Article 2, Section 6-219)

§6-117 DANGEROUS DOGS; DEFINITIONS.

“Animal control authority” shall mean an entity authorized to enforce the animal control laws on behalf of the City.

“Animal control officer” shall mean any individual employed, appointed, or authorized by the City for the purpose of aiding in the enforcement of this Article relating to the licensure of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

“Dangerous dog” shall mean any dog that, according to the records of an animal control authority:

- (1) Has killed or inflicted severe injury on a human being on public or private property;
- (2) Has killed a domestic animal without provocation while the dog was off the owner's property; or
- (3) Has been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination and such dog has again aggressively bit, attacked, or endangered the safety of humans or domestic animals; provided, however, 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 as defined under Nebraska law 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.

“Pit bull” and “Rottweiler” dog mean and include any of the following dogs:

- (1) The Staffordshire Bull Terrier breed of dogs.
- (2) The American Staffordshire Terrier breed of dogs.

- (3) The American Pit Bull Terrier breed of dogs.
- (4) Dogs that have the appearance and characteristics of being predominately of the breeds of dogs known as Rottweilers, Staffordshire Bull Terriers, American Staffordshire Terriers, or American Pit Bull Terriers.

“Potentially dangerous dog” shall mean:

- (1) Any dog that when unprovoked (A) inflicts a non-severe injury on a human or injures a domestic animal either on public or private property or (B) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or
- (2) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

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

(Ref. 54-617 RS Neb.) (Am. by Ord Nos. 199, 2/12/90; 220, 7/22/91; 2006-002, 3/13/06)

§6-117.01 DANGEROUS DOGS; DOGS PRESUMED DANGEROUS.

Any dog that is harbored, kept, or kenneled within the jurisdiction of the City of Battle Creek and/or registered with the City Clerk as a pit bull or Rottweiler dog is presumed to be a dangerous dog and is therefore subject to the requirements of this Article. (Ord. No. 2006-002, 3/13/06)

§6-118 DANGEROUS DOGS; DECLARED NUISANCE.

Dangerous dogs are hereby declared to be a nuisance and nuisances are to be abated as provided in Chapter 4, Article 4 of the City Code. (Ord. No. 2006-002, 3/13/06)

§6-119 DANGEROUS DOGS; IMMEDIATE IMPOUNDMENT.

Any dangerous dog may be immediately impounded by the animal control officer for a violation of this Article, subject to the following procedure:

(1) The owner of the dangerous dog who has been immediately impounded shall be notified of the impoundment by certified mail within five business days after the dangerous dog's impoundment.

(2) The notice of impoundment shall inform the owner of the dangerous dog that he/she may request, in writing to the City Clerk, a hearing before the City Council to contest the impoundment within five business days after the mailing of the notice of impoundment.

(3) Upon request for a hearing by the owner of the dangerous dog, a hearing shall be held within ten business days after such request is received by the City Clerk. Notice of the date, time and location of the hearing shall be provided by certified mail to the owner of the dangerous dog requesting the hearing.

(4) Notwithstanding the provisions of Subsections (1), (2), and (3) above, if a dangerous dog attacks or bites a person or another domestic animal or allowed to run at large, the dangerous dog shall be immediately impounded by an animal control officer, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

(5) The owner of a dangerous dog shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog impounded by an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated sections Article. In the event that the dangerous dog cannot safely and humanly be confiscated, or if it is necessary for self defense or the physical defense of others, the animal control officer may use sufficient force, including summarily destroying the dangerous dog, to safely carry out his or her duties.

(Ord. No. 2006-002, 3/13/06)

§6-120 DANGEROUS DOGS; FAILURE TO COMPLY.

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

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

(Ref. 54-620 RS Neb.) (Ord. Nos. 199, 2/12/90; 220, 7/22/91)

§6-121 DANGEROUS DOGS; ADDITIONAL REGULATIONS.

Nothing in this Article shall be construed to restrict or prohibit the City Council from establishing and enforcing laws or ordinances at least as stringent as the provisions of this Article. (Ref. 54-624 RS Neb.) (Ord. Nos. 199, 2/12/90; No. 220, 7/22/91)

§6-122 VIOLATION; PENALTY.

Violations of sections 6-101 to 6-121 of the Code shall constitute an offense, and upon conviction thereof shall be punishable by a fine of \$50.00 for any first offense thereof; and by a fine of \$100.00 for any second or subsequent offense thereof. This section supersedes the penalty found at section 6-601 of this Code. (Ord. No. 2001-002, 5/14/01)

Article 2 – Animals Generally

§6-201 ANIMALS; RUNNING AT LARGE.

It shall be unlawful for the owner of any animal as defined in this Article to allow such animal to run at large at any time within the corporate limits of the municipality. It shall be the duty of the City Police to cause any animal found to be running at large within the City to be taken up and impounded. For the purpose of this Article, the following defini-

tions shall apply:

“Animal” shall mean any dog, cat, horse, mule, cow, sheep, goat, swine, poultry, chickens, turkeys, ducks, geese, any other fowl, and/or other domesticated pet.

“Domesticated” shall mean a tame animal that is subject to the dominion and control of an owner or person keeping or harboring said animal, which is accustomed to living in or near human habitation without requiring extraordinary restraint for the protection of humans or unreasonably disturbing such human habitation.

“Running at large” shall mean any animal found off the premises of the owner and not under control of the owner or a responsible person either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

(Ref. 17-526, 54-607 RS Neb.) (Ord. No. 2003-004, 4/7/03)

§6-202 CONTROLLED WITHIN CITY.

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock within 200 feet of any dwelling unit within the corporate limits. (Ref. 17-123 RS Neb.)

§6-203 CRUELTY.

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

§6-204 FOWLS; RUNNING AT LARGE.

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

§6-205 RIGHT TO IMPOUND.

Any person finding any animal or fowl running at large upon his property or in the vicinity thereof to his annoyance may take the same, remove it and impound it in any private shelter. Upon so doing, the person so impounding the animal or fowl shall notify the Police Department of this custody as soon as possible, giving a description of the animal and its location. Upon demand, the person so impounding any such animal or fowl shall deliver and surrender the same to the Chief of Police or his designated representative.

§6-206 IMPOUNDING.

(1) It shall be the duty of the City Police to capture, secure, and remove in a humane manner to the city animal shelter any animal violating any of the provisions of this Article. The animal 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 days after public notice has been given, unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the City Clerk within 24 hours after impoundment as public notification of such impoundment.

(2) Any animal may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file in the office of the City Clerk. The owner shall then be required to comply with any licensing and rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of required waiting period after public notice has been given, the City Police may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, if in the judgment of the City Police a suitable home can be found for such animal within the City, the said animal may be turned over to that person and the new owner shall then be required to pay all fees and meet all applicable licensing and vaccinating requirements provided in this Article.

(3) The City shall acquire legal title to any animal impounded in the 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 it. (Ref. 17-548, 71-4408 RS Neb.) (Ord. No. 2003-004, 4/7/03)

§6-207 RETURN TO OWNER.

If the owner of the animal or fowl impounded following its running at large is known or located, or if claim for the animal or fowl impounded is made, then the owner thereof shall be entitled to resume possession of the animal or fowl upon payment of any costs, fines, expenses and reasonable pound fees which shall have been established by the Chief of Police in his sole discretion. If no claim is made for an animal or fowl so impounded, then the Chief of Police shall be responsible for disposing of the same in a humane manner as soon as possible after the animal or fowl has been impounded for a period of five days.

§6-208 POUND ARRANGEMENTS.

The City of Battle Creek, acting through the Police Chief, may enter into any reasonable, necessary agreements to provide for an animal and fowl impoundment facility, but any such agreement shall be effective only after it has been approved by the Mayor and City Council.

§6-209 SUMMARY DISPOSITION.

In the event that any animal or fowl is found running at large and, in the discretion of the Chief of Police or any Police Officer of the City, poses a serious immediate threat to the health, welfare or safety of the City or its inhabitants or any number thereof, then the Chief of Police or any Police Officer may in his discretion summarily destroy or dispose of the animal or fowl in a reasonable, humane manner.

§6-210 ABANDONMENT, NEGLECT, AND CRUELTY; DEFINITIONS.

“Abandon” shall mean to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

“Animal” shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature.

“Cruelly mistreat” shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal.

“Cruelly neglect” shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health.

“Humane killing” shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering.

“Law enforcement officer” shall mean any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the City, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations, or ordinances.

(Ref. 28-1008 RS Neb.) (Ord. No. 217, 2/11/91)

§6-211 ABANDONMENT, NEGLECT, AND CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY.

(1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.

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

(Ref. 28-1012 RS Neb.) (Ord. No. 217, 2/11/91)

§6-212 ABANDONMENT, NEGLECT, AND CRUELTY; PENALTY.

A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal. (Ref. 28-1009 RS Neb.) (Ord. No. 217, 2/11/91)

§6-213 PITTING; DEFINITIONS.

“Bearbaiting” shall mean the pitting of any animal against a bear.

“Cockfighting” shall mean the pitting of a fowl against another fowl.

“Dogfighting” shall mean the pitting of a dog against another dog.

“Pitting” shall mean bringing animals together in combat.

(Ref. 28-1004 RS Neb.) (Ord. No. 212, 2/11/91)

§6-214 PITTING; PROHIBITED.

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another; nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose; nor shall any person knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting; nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her. (Ref. 28-1005 RS Neb.) (Ord. No. 212, 2/11/91)

§6-215 PITTING; SPECTATORS PROHIBITED.

No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in section 6-214. (Ref. 28-1005 RS Neb.) (Ord. No. 212, 2/11/91)

§ 6-216 UNUSUAL ANIMALS PROHIBITED.

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

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

(C) In the event the Chief of Police determines an unusual animal is being owned, kept or harbored by any person in violation of this section, he may have such person prosecuted for such violation and shall order such person to remove said unusual animal from the City or destroy it. Such order shall be contained in a written notice to remove or destroy said unusual animal within ten days and shall be delivered in person or by certified mail, return receipt requested. If the owner or person keeping or harboring of such unusual animal shall have failed to remove or destroy such unusual animal after the expiration of ten days from the receipt of said notice and no appeal is taken, the Chief of Police shall have such unusual animal destroyed.

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

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

- (a) Class *Mammalian*; order *Carnivore*, family *Felidae* (such as lions, tigers, jaguars, leopards, bobcats and cougars), except commonly accepted domestic cats and hybrids involving the same; family *Canidae* (such as wolves, coyotes, and fox), except domesticated dogs and hybrids involving the same; family *Mustelidae* (such as weasels, martins, fishers, skunks, wolverines, mink and badgers), except ferrets; family *Procyonidae* (such as raccoon); family *Ursidae* (such as bears); order

Primata (such as monkeys and chimpanzees); and order *Chiroptera* (such as bats).

- (b) Poisonous reptiles, cobras, and their allies (*Elapidae*, hydrophobic); vipers and their allies (*Croctiladae*, *Viperidae*); boonslang and Kirkland's tree snake; and Gila monster (*Heleodermatidae*).
- (c) Non-poisonous reptiles or snakes that will grow to more than 6 feet in length at maturity.

(2) "Domesticated animal" shall mean a tame animal that is subject to the dominion and control of an owner or person keeping or harboring said animal and accustomed to living in or near human habitation without requiring extraordinary restraint for the protection of humans or unreasonably disturbing such human habitation.

(Ord. No. 99-382, 2/8/99)

§6-217 OFFENSIVE NOISE.

It shall be unlawful for any person to own, keep, or harbor any animal which by loud, continued, or frequent barking, howling, yelping, meowing, squawking, chirping, honking, or any other sound or noise emitted from the animal shall annoy or disturb any neighborhood, or person, or which habitually makes any such noise at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, alleys in the City. Upon the written complaint of any affected person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this Section, the City Police shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such animal. The provisions of this Section shall not be construed to apply to the city animal shelter. (Ref. 17-526 RS Neb.) (Ord. No. 2003-004, 4/7/03)

§6-218 LIABILITY OF OWNER.

It shall be unlawful for any person to allow any animal owned, kept, or harbored by him or her or under his or her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such animal, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Ref. 54-601, 54-602 RS Neb.) (Ord. No. 2003-004, 4/7/03)

§6-219 RABIES SUSPECTED.

Any dog, cat, raccoon, monkey or skunk which is the personal property of any person kept or maintained within the corporate limits that is suspected of being afflicted with rabies, or any dog or cat 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 days. If upon examination by a veterinarian such pet has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of an unlicensed dog or cat, it shall be disposed of in accordance with the provisions herein. If the owner of such pet has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the pet shall be examined by a licensed veterinarian. If no signs of rabies are observed, the pet

may be released from confinement. (Ref. 71-4406 RS Neb.)

§6-220 VIOLATION; PENALTY.

Violations of this Article of the official city code shall constitute an offense and upon conviction thereof shall be punishable by a fine of \$50.00 for any first offense thereof and by a fine of \$100.00 for any second or subsequent offense thereof. This section supersedes the penalty section found at 6-601 of this code. (Ord. No. 2003-004, 4/7/03)

Article 3 – Miscellaneous Misdemeanors

§6-301 CRIMINAL CODE INCORPORATED BY REFERENCE.

The Nebraska Criminal Code, as adopted by the State of Nebraska in Neb. Rev. Stat. Chapter 28, together with all subsequent amendments thereto, is hereby incorporated by reference into this section and made a part of this Article as though spread at large herein. Three copies of the Nebraska Criminal Code and amendments shall be on file with the City Clerk and shall be available for public inspection during office hours.

§6-302 MAINTAINING A NUISANCE.

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

§6-303 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.)

§6-304 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.)

§6-305 WEEDS, LITTER, STAGNANT WATER.

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

(B) The owner or occupant of any lot or piece of ground within the City shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation, or 8 inches in the event that the City has previously acted within the same calendar year to remove such grass in excess of 12 inches on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner or occupier of the property. (Am. by Ord. No. 2009-015, 12/14/09)

(C) The throwing, depositing, or accumulation of litter on any lot or piece of

ground within the city is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of twelve inches or more in height of weeds, grasses, or worthless vegetation or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

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

(F) (1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Within five days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to abate and remove the nuisance, the City may have such work done. The costs and expenses of any such work shall be paid by the owner.

(2) If unpaid for two months after such work is done, the City may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed; or (b) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(G) For purposes of this section:

(1) "Litter" includes, but is not limited to:

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

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

(Ref. 17-563 RS Neb.) (Ord. No. 230, 3/9/92) (Am. by Ord. No. 2005-003, 5/9/05)

§6-306 (Repealed)

§6-307 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 City; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Ref. 17-556 RS Neb.)

§6-308 SLINGSHOTS, AIR GUNS, BB GUNS.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the City. (Ref. 17-556 RS Neb.)

§6-309 INJURY TO TREES.

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

§6-310 LITTERING.

(1) Any person who deposits throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

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

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

(2) "Litter" as used in this section shall mean all waste material susceptible of being dropped, deposited, discarded or otherwise disposed of by any person upon any property but does not include wastes or primary processes of fanning or manufacturing. "Waste material" as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(3) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering.

(Ref. 28-523 RS Neb.) (Ord. No. 288, 3/13/95)

§6-311 CURFEW.

It shall be unlawful for any minor age 15 or under 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 street, alley, or other public place between the hours of 10:00 P.M. Sunday

through Thursday and 6:00 A.M. of the following day or between the hours of 11:00 P.M. Friday or Saturday and 6:00 A.M. of the following day unless accompanied by a parent, guardian or other adult person having the care, custody or control of said minor or unless the minor is engaged in lawful employment or is on an emergency errand; furthermore, it shall be unlawful for any minor between the age of 16 or older and 18 or under 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 street, alley, or other public place between the hours of 11:30 P.M. of any day and 6:00 A.M. of the following day unless accompanied by a parent, guardian or other adult person having the care, custody or control of said minor or unless the minor is engaged in lawful employment or is on an emergency errand; provided, when an activity of the kind normally attended by minors age 18 or under terminates after or less than one hour prior to the above-mentioned curfew, the curfew shall commence one hour after the termination of such activity. (Ref. 17-505 RS Neb.) (Ord. Nos. 108, 4/11/83; 252, 9/13/93; 2009-010, 8/10/09)

§6-312 MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR.

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

(B) Except as provided in section 10-102 of this Code, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor in his or her permanent place of residence or on the premises of a place of religious worship on which premises alcoholic liquor is consumed as a part of a religious rite, ritual, or ceremony.

(C) It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle.
(Ref. 53-180.02 RS Neb.) (Ord. No. 2002-029, 10/16/02)

§6-313 ABANDONED AUTOMOBILES.

It shall be unlawful to abandon any automobile on the city streets, highways, alleys, parks or other property as outlined below.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning. A motor vehicle is an “abandoned vehicle”:

(1) If left unattended, with no license plates or valid "in transit" stickers issued pursuant to the motor vehicle registration act affixed thereto, for more than six hours on any public property;

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

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

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

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

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

(B) No motor vehicle subject to forfeiture under Neb. Rev. Stat. §29-431 shall be an abandoned vehicle under this section.
(Neb. RS 60-1901)

(C) No person shall cause any vehicle to be an abandoned vehicle as described in division (A) of this section. (Neb. RS 60-1907)

(D) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid "in transit" stickers issued pursuant to Neb. Rev. Stat. §60-376 affixed and is of a wholesale value of \$250 or less, taking into consideration the condition of the vehicle, title shall immediately vest in the City. (Neb. RS 60-1902)

(E) (1) Except for vehicles governed by division (D) of this section, the City shall make an inquiry concerning the last registered owner of an abandoned vehicle as follows:

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

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

- (a) It will be sold or will be offered at public auction after 5 days from the date the notice was mailed; or
- (b) Title will vest in the municipality 30 days after the date the notice was mailed.

(3) If the City is notified that a lien or mortgage exists, the notice described in division (E)(2) of this section shall also be sent to the lien holder or mortgagee. Any person claiming the vehicle shall be required to pay the cost of removal and storage of the vehicle.

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

- (a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (E)(2)(a) of this section;
- (b) Thirty days after the date the notice is mailed if the City will retain the vehicle; or
- (c) If the last registered owner cannot be ascertained, when notice of that fact is received.

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

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

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

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

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

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

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

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

(K) For the purpose of this section, the following definitions shall apply unless the

context clearly indicates or requires a different meaning:

“Private property” shall mean any privately owned property which is not included within the definition of public property.

“Public property” shall mean any public right-of-way, street, highway, alley, or park, or other state, county, or municipally owned property. (Neb. RS 60-1901)

(L) Any person who violates the provisions of this section is guilty of an offense.

(M) For additional regulations, see Neb. Rev. Stat. §§60-1901 through 60-1911. (Am. by Ord. Nos. 2007-003; 2009-016, 12/14/09)

§6-314 SPITTING.

It shall be unlawful for any person to throw, spit, expectorate, or otherwise place or deposit saliva, tobacco substances, cigar stumps, rinds, papers, peelings, litter or other offensive or dangerous substances on any sidewalk, public walk, crossing, school house, or other public building, or on the steps in or leading to such building, or on the floors, walks or stairways of the building, or in the public parks of the City, or upon the streets, alleys or public places within the corporate limits.

§6-315 UNNECESSARY NOISE.

It shall be unlawful for any person to drive a motor vehicle upon the streets of the City in such a manner as to cause such vehicle to emit any excessive, unusual or unnecessary noise.

§6-316 VIOLENCE ON OR INTERFERENCE WITH A SERVICE DOG.

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

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

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

(4) For purposes of this section:

(a) “Blind person” means a person with totally impaired vision or with vision,

with or without correction, which is so severely impaired that the primary means of receiving information is through other sensory input, including but not limited to Braille, mechanical reproduction, synthesized speech, or readers;

- (b) "Deaf person" means a person with totally impaired hearing or with hearing, with or without amplification, which is so severely impaired that the primary means of receiving spoken language is through other sensory input, including but not limited to lip reading, sign language, finger spelling, or reading;
 - (c) "Hearing impaired person" means a person who is unable to hear air conduction thresholds at an average of 40 decibels or greater in the person's better ear;
 - (d) "Physically limited person" means a person having limited ambulatory abilities, including but not limited to having a permanent impairment or condition that requires the person to use a wheelchair or to walk with difficulty or insecurity to the extent that the person is insecure or exposed to danger; and
 - (e) "Visually impaired person" means a person having a visual acuity of 20/200 or less in the person's better eye with correction or having a limitation to the person's field of vision so that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.
- (Neb. RS 28-1009.01) (Ord. No. 98-359, 11/9/98)

§6-317 FALSE REPORTING.

A person who violates this section commits the offense of false reporting. It shall be unlawful for any person to:

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

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

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

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

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

§6-318 UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE.

It shall be unlawful for any person to be under the influence of any controlled substance for a purpose other than the treatment of a sickness or injury as prescribed or administered by a practitioner as defined in Neb. Rev. Stat. §28-401. (Neb. RS 28-417) (Ord. No. 2002-030, 10/16/02)

§6-319 CRIMINAL MISCHIEF.

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

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

(B) Criminal mischief is an offense:

- (1) If the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than \$200 or if his or her action results in no pecuniary loss; or
- (2) If the actor intentionally or maliciously causes pecuniary loss of \$200 or more but less than \$500.

(Ord. No. 2003-015, 12/8/03)

§6-320 THEFT.

(A) For purposes of this section:

- (1) The definitions found in Neb. Rev. Stat. §28-509 shall apply; and
- (2) The offenses described in divisions (B) through (G) shall exist when the value of the thing involved is under \$500.

(B) (1) A person commits theft if he or she takes or exercises control over movable property of another with the intent to deprive him or her thereof.

(2) A person commits theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto.

(3) Except as provided for rental or lease of a motor vehicle in Neb. Rev. Stat. §28-511(4), it shall be presumed that a lessee's failure to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement is done with intent to deprive if such lessee has been mailed notice by certified mail that such lease or rental agreement has expired and he or she has failed within

ten days after such notice to return such property.
(Neb. RS 28-511)

(C) A person commits theft if he or she obtains property of another by deception as defined in Neb. Rev. Stat. §28-512. (Neb. RS 28-512)

(D) (1) A person commits theft if he or she obtains property of another by threatening to:

- (a) Inflict bodily injury on anyone or commit any other criminal offense;
- (b) Accuse anyone of a criminal offense;
- (c) Expose any secret tending to subject any person to hatred, contempt, or ridicule, or to impair his or her credit or business repute;
- (d) Take or withhold action as an official, or cause an official to take or withhold action;
- (e) Bring about or continue to 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
- (f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is an affirmative defense to prosecution based on subdivisions (D)(1)(b), (c), or (d) 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.
(Neb. RS 28-513)

(E) A person who comes into control of property of another that he or she 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 commits theft if, with intent to deprive the owner thereof, he or she fails to take reasonable measures to restore the property to a person entitled to have it. (Neb. RS 28-514)

(F) (1) A person commits theft if he or she obtains services, which he or she knows are available only for compensation, by deception or threat or by false token or other means to avoid payment for the service. Services include labor, professional service, telephone service, electric service, cable television service, or other public service, accommodation in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other movable property. When compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay gives rise to presumption that the service was obtained by deception as to intention to pay.

(2) A person commits theft if, having control over the disposition of services of others to which he or she is not entitled, he or she diverts to his or her own benefit or to the benefit of another not entitled thereto.

(Neb. RS 28-515)

(G) A person commits theft if he or she receives, retains, or disposes of stolen movable property of 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. (Neb. RS 28-517)
(Ord. No. 2003-015, 12/8/03)

§6-321 THEFT OF TELECOMMUNICATIONS SERVICE.

(A) It is an offense for any person to:

(1) Knowingly make or possess any device designed to or commonly used to obtain telecommunications service fraudulently from a licensed cable television franchisees with the intent to use such device in the commission of an offense described in subsection (1) of Neb. Rev. Stat. §28-515;

(2) Knowingly tamper with, interfere with, or connect to any cables, wires, converters, or other devices used for the distribution of telecommunications service by any mechanical, electrical, acoustical, or other means without authority from the operator of the service with the intent of obtaining telecommunications service fraudulently; or

(3) Sell, give, transfer, or offer or advertise for sale a device which such person knows or should know is intended to be used for the purpose of obtaining telecommunications services fraudulently.

(B) For purposes of this section:

(1) "Telecommunications service" includes, but is not limited to, telephone service and cable television service; and

(2) "Device" includes, but is not limited to, instrument, apparatus, equipment, and plans or instructions for making or assembling the instrument, apparatus, or equipment. (Neb. RS 28-515.01) (Ord. No. 2003-015, 12/8/03)

§6-322 CRIMINAL IMPERSONATION.

(A) For purposes of this section:

(1) The definitions found in Neb. Rev. Stat. §28-608 shall apply; and

(2) The offenses described in division (B) shall exist when the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500.

(B) A person commits criminal impersonation if he or she:

(1) Assumes a false identity and does an act in his or her assumed character with intent to gain a pecuniary benefit for himself, herself, or another or to deceive or harm another;

(2) Pretends to be a representative of some person or organization and does

an act in his or her pretended capacity with the intent to gain a pecuniary benefit for himself, herself, or another and to deceive or harm another;

(3) Carries on any profession, business, or any other occupation without a license, certificate, or other authorization required by law.

(4) Without the authorization or permission of another and with the intent to deceive or harm another:

(a) Obtains or records personal identification documents or personal identifying information; and

(b) Accesses or attempts to access the financial resources of another through the use of a personal identification document or personal identifying information for the purpose of obtaining credit, money, goods, services, or any other thing of value.

(C) "Criminal impersonation" does not mean:

(1) The lawful obtaining of credit information in the course of a bona fide consumer or commercial transaction;

(2) The lawful, good faith exercise of a security or a right of setoff by a creditor or a financial institution; or

(3) The lawful, good faith compliance by any person when required by any warrant, levy, garnishment, attachment, court order, or other judicial or administrative order, decree, or directive.

(Neb. RS 28-608) (Ord. No. 2003-015, 12/8/03)

§6-323 URINATING OR DEFECATING IN PUBLIC.

No person shall urinate or defecate in or upon any street, sidewalk, alley, plaza, park, beach, public building or publicly maintained facility or property, or in any place open to the public or exposed to public view. This section shall not apply to urination or defecation which is done in a proper receptacle in any restroom or other facility designed for the sanitary disposal of human waste. (Ord. No. 2005-002, 3/14/05)

Article 4 – Police Officers’ Rules and Regulations

§6-401 ADOPTION OF POLICE REGULATIONS.

The booklet entitled "Rules and Regulations for City of Battle Creek Police Officers" is hereby adopted and such minimum regulations and standards, including all subsequent additions, amendments, supplements or appendices thereto, are made a part of this section as fully as if set forth at length herein. Three (3) copies of said police regulations and any and all subsequent additions, amendments, supplements or appendices there- to shall be placed on file with the City Clerk. (Ord. No. 126, 4/23/84)

**§6-402 SALE OF ABANDONED OR SEIZED PERSONAL PROPERTY;
EXCEPTION.**

It is hereby made the duty of every member of the police force, as he may be directed, to deliver for detention and disposition every item of personal property that may be seized or found by him, except those motorized vehicles which must be licensed pursuant to state laws, immediately after the same shall have come into his possession. A record shall be kept for every item of personal property coming into the possession of the Police Department, except those motorized vehicles which must be licensed pursuant to state laws, indicating the date of receipt and description thereof. All personal property in the custody of the City, except those motorized vehicles which must be licensed pursuant to state laws, which have remained unclaimed for more than 60 days shall be disposed of in the following manner:

(1) Such personal property shall be sold at public auction at such location as may be designated by the Mayor to the highest bidder on such dates as shall be determined by the Chief of Police; provided, any such personal property shall be reserved from sale if a minimum bid is not received on such personal property. Such minimum bid amount shall be set by the City Council and placed on file in the office of the Village Clerk. Notice of any such sale shall be published in a newspaper of general circulation in the City once a week for two consecutive weeks, with the last day of such publication to be not less than ten days or more than 20 days prior to the date of sale. The owner of any personal property, except those motorized vehicles which must be licensed pursuant to laws of the State of Nebraska, if known to any member of the Police Department, shall be given notice that such personal property is being detained for disposition. Said notice shall be by regular United States mail, sent to the last known address of the known owner at least ten days prior to the date of auction at which personal property is to be sold.

(2) The proceeds from the sale of the personal property, less any expenses incurred by the City in such removal, storage and sale, shall be held without interest in a separate account for the benefit of the owner of such personal property for a period of two months. If not claimed within such period of time, the proceeds shall be paid into the General Fund.

(Ord. No. 157, 10/12/87)

Article 5 – Failure to Appear in Court

§6-501 PENALTY.

Whoever is charged with violation of a city ordinance, conviction of which would carry a jail sentence or require the payment of a fine, or either, and who shall fail to appear in court therefor following the communication to the defendant of a date for appearance as provided by law, upon conviction for willful failure to so appear shall be guilty of an offense and be punished in the manner provided in section 5-701 of this Code. (Ord. No. 2004-006, 6/14/04)

Article 6 – Penal Provisions

[Editor's Note: For penalties for violation of specific sections,

see section 6-122 and section 6-220 of this Code.]

§6-601 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. No. 2009-007, 6/8/09)

§6-602 ABATEMENT OF NUISANCE.

Whenever a nuisance exists as defined in this Chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. 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. (Neb. RS 18-1720, 18-1722)