

## **Article 2. Animals Generally**

### **§6-201 ANIMALS; BANNED FROM CITY.**

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock. (Ref. 17-547 RS Neb)

### **§6-202 ANIMALS; 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 any city or village, or any other public official authorized by a city or village to enforce state or local animal control laws, rules, regulations, or ordinances. (Ref. 28-1008 RS Neb.)

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

A. 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.

B. 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.

C. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.  
(Ref. 28-1012 RS Neb.)

**§6-204 ANIMALS; 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.)

ORDINANCE NO. 702

AN ORDINANCE OF THE CITY OF OAKLAND, NEBRASKA, TO REGULATE ANIMAL WASTE; TO ESTABLISH PENALTIES FOR VIOLATIONS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF OAKLAND, BURT COUNTY, NEBRASKA:

**Section 1.** Section 6-205 of the Oakland Municipal Code is hereby created as follows:

SECTION 6-205: ANIMAL WASTE

A. It shall be unlawful for any person having custody or control of any animal to place, deposit, discard, or dispose of feces or manure on public property or private property. Animal owners and custodians shall be responsible for the removal of all waste deposited by his/her animal on public walks, recreation areas, or private property. This applies to the owner's or custodian's property both inside and outside the residence in terms of not permitting unsanitary conditions, such as creating an odor nuisance.

B. Any person violating this section shall be deemed guilty of an offense and upon conviction shall be fined \$50.00 for a first offense, \$100.00 for a second offense, and \$150.00 for any third and subsequent offense. Nothing in this section shall prevent the City from pursuing nuisance abatement and other proceedings against the person violating this section, in addition to the penalties provided herein.

**Section 2.** Any other ordinance or section passed and approved prior to passage, approval, and publication of this ordinance and in conflict with its provisions are repealed.

**Section 3.** This ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

Passed and approved this \_\_\_\_\_ day of August, 2016.

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Mayor

(SEAL)



Clerk

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### **Article 3. General Offenses**

#### **§6-301 OFFENSES; CRIMINAL MISCHIEF.**

It shall be unlawful for any person intentionally or recklessly to damage property of another; 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, the value of the property involved is under \$300.00. (Ref. 28-519 RS Neb.)

#### **§6-302 OFFENSES; 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 OFFENSES; 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/she shall first remove all doors and make the appliance reasonably safe. (Ref. 18-1720 RS Neb.)

#### **§6-304 OFFENSES; 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 street and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation.

C. The throwing, depositing, or accumulation of litter on any lot or piece of ground within the City is prohibited, except that grass, leaves, and worthless vegetation may be used as ground mulch or in a compost pile.

D. It is hereby declared to be a nuisance to permit or maintain any growth of 12 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. Abatement of nuisances:

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 publica-

tion 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; 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.) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

(Ref. 17-563, RS Neb.) (Amended by Ord. 608, 12/13/04)

### **§6-305 OFFENSES; DISCHARGE OF FIREARMS.**

It shall be unlawful for any person, except an officer of the law in the discharge of his/her 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.)

**§6-306 OFFENSES; 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. 17-207 RS Neb.)

**§6-307 OFFENSES; ABANDONED AUTOMOBILES.**

A. It shall be unlawful to abandon any automobile on the city streets, highways, alleys, parks or other property. An automobile shall be deemed to be abandoned if left unattended:

1. With no number plates affixed thereto for more than six hours on any public property; or,
2. For more than 24 hours on any public property, except a portion thereof on which parking is legally permitted; or,
3. For more than 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,
4. For more than seven days on private property if left initially without permission of the owner or after permission of the owner shall be terminated.

B. 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 of \$100.00 or less, taking into consideration the condition of such vehicle, shall immediately vest in the City. In the event the automobile is licensed for the current year or is of a wholesale value of over \$100.00, the City 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 lien holder 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 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 City and the automobile may be sold. Any proceeds from the sale of the automobile less any expenses incurred by the City in such sale shall be held without interest for the benefit of the owner of such vehicle for a period of two years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund.

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

public property.

D. Any person who abandons an automobile as hereinbefore defined shall be deemed to be guilty of an offense.

(Ref. 60-1901 through 60-1911 RS Neb.)

#### **§6-308 OFFENSES; UNLICENSED OR INOPERABLE VEHICLES.**

No person in charge or control of any property within the City, other than city property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on such property longer than 30 days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time; provided, this section shall not apply to a vehicle (A) in an enclosed building; (B) on the premises of a business enterprise, operated in a lawful place and manner, when such vehicle is necessary to the lawful operation of the business; or (C) in an appropriate storage place or depository maintained in a lawful place and manner by the City. Any vehicle allowed to remain on property in violation of this section shall be subject to immediate removal at the owner's expense and disposal pursuant to state laws governing disposal of abandoned vehicles. Any person violating this section shall be guilty of an offense. (Am. by Ord. No. 654, 10/11/10)

#### **§6-309 OFFENSES; CURFEW.**

It shall be unlawful for any minor under the age of 18 years to ride in or operate any vehicle in or upon any street, alley, or other public place, or to loiter, wander, stroll, loaf, or play in or upon any of the streets, alleys, or other public places between the hours of 10:00 P.M. and 5:00 A.M. Monday through Thursday, and between the hours of 11:00 P.M. and 5:00 A.M. Friday through Sunday 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, curfew hours described in this section for minors 16 years of age or over but under the age of 18 shall be from 11:00 P.M. each night to 5:00 A.M. the next day from Sunday through and including Thursday, and from 12:00 P.M. midnight each Friday and Saturday night to 5:00 A.M. the next day, but otherwise subject to the requirements of this section.

#### **§6-310 OFFENSES; CURFEW VIOLATION; PARENTAL LIABILITY.**

It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a minor under the age of 18 years to allow or permit said minor persons to do any of the acts or things prohibited under Section 6-309.

#### **§6-311 OFFENSES; CURFEW ENFORCEMENT; POLICE AUTHORIZATION.**

Every member of the police force while on duty shall be authorized to detain any such minor willfully violating the provision of Section 6-309 and upon apprehension of said minor shall forthwith notify the parents or legal guardians or persons in custody of said minor child by

telephone or other appropriate means.

### **§6-312 OFFENSES; DISORDERLY CONDUCT.**

A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he/she:

A. Engages in fighting or threatening, or in violent or tumultuous behavior;

B. Makes unreasonable noise or offensively coarse utterance, gesture or display, or addresses abusive language to any person present; or

C. Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

(Ord. No. 487, 12/12/94)

### **§6-313 OFFENSES; NOISE CONTROL.**

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but said enumeration shall not be deemed to be exclusive, namely:

1. *Horns, Signaling Devices, etc.* (A) The sounding of any horn or signaling device on any automobile, motorcycle, car or other vehicle on any street or public place of the City, except as a danger warning; (B) the creation by means of any such signaling device of any unreasonable loud or harsh sound; and (C) the sounding of any such device for an unnecessary and unreasonable period of time. (D) The use of any signaling device except one operated by hand or electricity; (E) the use of any horn, whistle or other device operated by engine exhaust; and (F) the use of any such signaling device when traffic is held up for any reason.

2. *Radios, Phonographs, etc.* (A) The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in that room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. (B) The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 P.M. and 7:00 A.M. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

3. *Loud Noise.* (A) It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system or similar device which reproduces or amplifies radio broadcast or musical recordings in or upon any street, alley or other public

place in such a manner as to be audible to other person more than 50 feet from the source. (B) Persons operating such devices while participating in licensed or permitted activities such as parades shall not be deemed in violation of this section.

4. *Yelling, Shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

5. *Animals, Birds, Miscellaneous Pets.* The keeping of any animal or bird which, by causing frequent or long continued noise, including barking, shall disturb the comfort and repose of any person in the vicinity.

6. *Exhausts.* The discharge into the open air of the exhaust of any stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(Ord. No. 582, 1/13/03)

## **§6-314 OFFENSES; SEXUAL PREDATOR RESIDENCY RESTRICTIONS.**

### *A. Findings and Intent.*

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

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

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

### *B. Definitions.* For purposes of this ordinance:

1. "Child care facility" means a facility licensed pursuant to the Child Care Licensing Act;

2. "School" means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

3. "Reside" means to sleep, live, or dwell at a place, which may include more than one location, and may be mobile or transitory;

4. "Residence" means a place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory;

5. "Sex offender" means an individual who has been convicted of a crime listed in Nebr. Rev. Stat. section 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

6. "Sexual predator" means an individual who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under Nebr. Rev. Stat. section 29-4013, and who has victimized a person eighteen years of age or younger.

*C. Penalties; Exceptions.*

1. *Prohibited Location of Residence.* It is unlawful for any sexual predator to reside within five hundred feet from a school or child care facility.

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

3. *Penalties.* A person who violates this section shall be punished as provided generally in the code.

4. *Exceptions.* This ordinance shall not apply to a sexual predator who:

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

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

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

(Statutory Reference: The Sexual Predator Residency Restriction Act, Laws 2006, LB 1199, §§27 to 29; Neb. Rev. Stat. Sec. 29-4003 and Sec. 29-4013) (Ord. 620, 7/10/06)



## **Article 4. Penal Provision**

### **§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 an offense 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. (Amended by Ord. 638, 10/13/08)

