

Chapter 6
POLICE REGULATIONS

Article 1. Dogs

§6-101 DOGS; SHORT TITLE; DEFINITIONS. This Article shall be known as and may be cited as "THE WAVERLY DOG ORDINANCE." For the purpose of this Chapter, the following definitions shall prevail:

- A. Dog: The term "dog", whenever used in this Chapter, shall mean an animal of Canine or Canidae family, regardless of sex.
- B. Inoculation, Vaccination, or Vaccination for Rabies: The terms "inoculations," "vaccination," or "vaccination for rabies," whenever used in this Chapter, shall mean the inoculation of a dog, cat, or other animal with a vaccine approved by the State Veterinarian and as required by the Nebraska Statutes, or approved by the Lincoln-Lancaster County Department of Health. (*Ref. 71-4401 to 71-4412 RS Neb.*)
- C. Own: The term "own," as used in this Chapter, unless otherwise indicated in the text, shall be deemed to mean and include, own, keep, harbor, or have charge, custody, or control of, a dog.
- D. Owner: The term "owner," as used in this Chapter, shall mean any person or persons, firm, association, corporation, or other entity, who shall harbor or permit any dog to be in or about his or her house, store, or enclosure, or to remain to be fed in or about his or her house, store, or enclosure, for a period of ten (10) days or more. (*Ref. 54-606, 71-4401 RS Neb.*)
- E. Person: The term "person," as used in this Chapter, shall mean and include any individual, firm, corporation, association, partnership, or any other entity.
- F. Kennel: The term "kennel," as used in this Chapter, shall be deemed to mean the house, store, yard, enclosure, or place where more than three (3) dogs over the age of six (6) months, are harbored or kept, provided, however, that this definition shall not apply to any animal shelter, not to the place of business of licensed veterinarians.
- G. Spayed Female Dog: The term "spayed female dog," as used in this Chapter, shall be construed to include any female dog which has been spayed or otherwise rendered incapable of reproduction.
- H. Neutered Male Dog: The term "neutered male dog," as used in this Chapter, shall be construed to include any male dog which has been neutered or otherwise rendered incapable of reproduction. (*Amended by Ordinance 03-01, 2/17/03*)
- I. Dangerous Dog: The term "dangerous dog" as used in this Chapter shall mean any dog that:
 - 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;
3. has been previously determined to be a potentially dangerous dog according to this Chapter and such dog subsequently bites, attacks, or endangers the safety of humans or domestic animals;
4. any dog that has been trained for dog fighting, animal fighting or animal biting, or is owned or kept for such purposes;
5. any dog trained to attack human beings, upon command or spontaneously in response to human activities except dogs owned by and under the control of a law enforcement officer or a law enforcement agency of the State of Nebraska or the United States or a branch of the armed forces of the United States;

Under (1) and (3) herein, a dog shall not be considered a dangerous dog if the conduct of the dog in question is directed at a person:

1. who, at the time, was committing a willful trespass or any other tort upon the property of the owner of the dog;
2. who, at the time, was tormenting, abusing, or assaulting the dog;
3. who has, in the past, been observed or reported to have tormented, abused or assaulted the dog; or
4. who, at the time, was committing or attempting to commit a crime against the person, against public peace, or relating to property.

J. Potentially Dangerous Dog: The term "potentially dangerous dog" as used in this Chapter shall mean:

1. Any dog that when provoked:
 - a. inflicts a wound 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 property in an outward appearance of aggressive or dangerous behavior; or
2. 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; or
3. Any dog that:
 - a. is of the Rottweiler breed of dog;

- b. is to the Staffordshire terrier breed of dog;
- c. is of the American pit bull terrier breed of dog;
- d. is of the American Staffordshire terrier breed of dog; or
- e. any dog which has the appearance and characteristics of being predominately of the Staffordshire terrier, American pit bull terrier or American Staffordshire terrier breed. (*Amended by Ord. No. 05-12, 9/6/05*)

§6-102 DOGS; VACCINATION AGAINST RABIES REQUIRED; VACCINATION

TAG. Any person within the City owning a dog four (4) months of age or older shall have such dog vaccinated against rabies. Young dogs shall be vaccinated within thirty (30) days when they have reached four (4) months of age. Unvaccinated dogs acquired or moved into the Municipality must be vaccinated within thirty (30) days after purchase or arrival, unless under four (4) months of age as specified above. It shall be the duty of every person owning, keeping, or harboring a dog within the City of Waverly to require their veterinarian, at the time of vaccinating any dog, to provide a copy of a uniform rabies vaccination certificate to the Lincoln-Lancaster County Department of Health and to the Waverly Municipal Clerk and to provide a rabies vaccination tag to the owner. It shall be the duty of every veterinarian administering any rabies vaccination within the City of Waverly to provide a copy of the rabies vaccination certificate as required above. The rabies vaccination tag shall be attached to and kept upon the collar or harness of the dog. Dogs shall be vaccinated within the three (3) year period immediately prior to the last date of vaccination if the last vaccination was with chick embryo Low Egg Passage fluffy vaccine or within the one (1) year period immediately prior to the last date of vaccination if the last vaccination was with killed or inactivated vaccine. Dogs may be vaccinated with any other vaccine approved by the State Veterinarian or otherwise authorized by the laws of the State of Nebraska, and the intervals of any other antirabies vaccines shall be set by the State Veterinarian. (*Ref. 71-4401 to 71-4412 RS Neb.*)

§6-103 DOGS; EXCEPTIONS TO RABIES VACCINATION; DOGS HELD FOR RESEARCH.

The vaccination provisions of this Article with respect to dogs assigned to a bona fide research institution shall not apply if such dogs are kept under strict supervision of research personnel, and are kept in a kennel or similar holding facility, nor shall such vaccination provisions apply to dogs which are otherwise exempt from vaccination requirements under Nebraska law.

§6-104 DOGS; LICENSE. Any person who shall own, keep, or harbor a dog over the age of six (6) months within the Municipality shall within thirty (30) days after acquisition of the said dog acquire a license for each such dog annually by or before the thirty-first (31st) day of January of each year. Such tax shall be delinquent from and after February first (1st); Provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to January first (1st) of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within thirty (30) days thereafter. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee in accordance with the following schedule:

- Male Dog - \$20.00
- Neutered Male Dog - \$10.00
- Female Dog - \$20.00
- Spayed Female Dog - \$10.00

Provided, that the sum of five dollars (\$5.00) shall be added to the license fees set forth in the foregoing schedule for each license obtained after February first (1st) or otherwise delinquent. Dogs shall be licensed for the reduced fee provided for spayed and neutered dogs only upon presentation of a certificate of neutering signed by a licensed veterinarian or upon presentation of other hand-written verification signed by a licensed veterinarian that such dog is not longer capable of reproduction.

Such license 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 of the application is made and upon printed forms provided for such purpose, the following information:

- A. The name and address of the owner of the dog;
- B. The license number of the tag issued for such dog;
- C. The breed, age, color, name, and sex of the dog;
- D. Such other information as the Municipal Clerk may require for the purpose of identification.

A uniform certificate of rabies vaccination or reasonable facsimile thereof sufficient to comply with the requirement of Section 6-102 of this Code shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (*Ref. 17-526, 54-603, 71-4401 to 71-4412 RS Neb.*) (*Amended by Ord. No. 87-13, 9/8/87, 02-03, 2/4/02; 10-05, 5/3/10*)

§6-105 DOGS; LICENSE TAGS. Upon the payment of the license fee and the presentation of a satisfactory proof of vaccination, the Municipal Clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. Said license certificate shall be issued in duplicate, the original of which shall be delivered to the owner of the dog, who shall retain it as evidence of the dog's license; the duplicate shall be retained by the Municipal Clerk. The metallic tags shall be of such design as shall be approved by the Municipal Clerk, shall bear the license number shown on the license, and shall have die-stamped thereon the license number, the words "DOG TAG – WAVERLY, NEBRASKA," and the year for which issued. The metallic tags so issued shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor said dog until the thirty-first (31st) day of December following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year of which the license tax has been paid and shall charge and collect one dollar (\$1.00) for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the Governing Body. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year. (*Ref. 17-526, 54-603 RS*)

§6-106 DOGS; WRONGFUL LICENSING. It shall be unlawful for the owner of any dog to permit or allow such dog to wear any other license tag than the identical one issued for such dog by the Municipality in which such owner resides, and for the license year for which issued. (*Ref. 17-526, 54-603*)

§6-107 DOGS; WEARING OF COLLARS; IDENTIFICATION; REMOVAL OF LICENSE TAG; RELEASE FROM RESTRAINT; WHEN PROHIBITED. Every dog within the Municipality shall wear a collar or harness and license tag at all times. It shall be unlawful for any person to remove, or cause to be removed, the collar, harness,

or metallic license tag, or rabies vaccination tag from any licensed dog or release any dog from such restraint as is required by 6-112(B) of this Article without the permission of the owner. *(Ref. 54-605 RS Neb.)*

§6-108 DOGS; EXCEPTIONS TO LICENSE; TRANSIENT DOGS. The provisions of this Article with respect to licensing and vaccination against rabies shall not apply to a dog owned by any person temporarily remaining within the City for less than thirty (30) days. The provisions of this Article with respect to licensing and vaccination against rabies shall not apply to any dog owned by a bona fide resident of any other Municipality who works within the City of Waverly, whether or not, in excess of thirty (30) days; Provided, however, that such dogs must be vaccinated against rabies in accordance with the provisions of Nebraska law and properly licensed by the Municipality in which the owner resides.

§6-109 DOGS; PROCLAMATION. It shall be the duty of the Mayor, whenever in his or her 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 such dogs for a period of not less than thirty (30) days or more than ninety (90) days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein 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.)*

§6-110 DOGS; KILLING AND POISONING. It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or to place any poison, or poisoned food where the same is accessible to a dog, except as elsewhere specifically authorized in this Code or by Nebraska law. *(Ref. 28-549 to 28-560, 54-604, 54-605 RS)*

§6-111 DOGS – OTHER ANIMALS; SEIZURE FOR PROTECTION OF ANIMAL. When, in the judgment of any Humane Office, any dog or other animal is deprived of food or fresh water or maintained under cruel or inhumane circumstances, the Municipality may seize such dog or other animal and provide for its well-being until, in the judgment of the Humane Officer, such animal will be properly cared for if returned to its owner. While such dog or other animal is under the care of the Municipality, the owner of such animal shall be charged for boarding fees at the rates provided under this Chapter for dogs and cats or shall be charged the actual costs of maintaining any other animals. Failure to pay the costs which accrue under this or any other Section within Article One (1), Two (2), or Three (3) of this Chapter shall be deemed a separate offense which may not be disposed of by waiver of appearance and plea of guilty. Upon conviction for violation of this Section the court may order the person so offending to pay to the City of Waverly all fees which have accrued under Article One (1), Two (2), or Three (3) of this Chapter with respect to such defendant. When in the judgment of the Humane Officer, the owner of any animal seized under this Section is unwilling or unable to properly care for such animal, title to such dog or other animal shall immediately vest in the Municipality and the Municipality shall thereafter find a suitable home for such animal, or if the same is not possible within a reasonable period of time, the Municipality shall dispose of the animal in a humane manner.

§6-112 DOGS; RUNNING AT LARGE.

- A. It shall be unlawful for the owner of any dog to allow such dog to run at large, whether licensed or not, at any time within the Municipality and any dog found to be running at large may be destroyed by the Municipality or may be impounded in a suitable animal shelter by any Humane Officer designated by the Municipality, by any law Enforcement Officer, or by any Municipal Officer or employee at the direction of the Mayor or the Municipal Clerk.
- B. For the purposes of this Article, the term "running at large" is defined to mean any dog found off the premises of the owner and not physically restrained by means of a leash, cord, wire, rope, or chain, held by a responsible person no less than eight (8) years of age; confined to a cage or under other suitable and humane means of physical restraint.
- C. It shall be the duty of the Humane Office, or in his or her absence or unavailability, it shall be the duty of the Law Enforcement Officer on duty, to cause any dog found to be running at large within the Municipality to be taken up and impounded. No dog found running at large shall be released from impoundment until the owner of said dog shall have obtained a license as provided in this Chapter and the impoundment fee or other fees have been paid or other satisfactory arrangements have been made. (*Ref. 17-506, 54-607 RS Neb.*)

§6-113 DOGS; UNCOLLARED. All dogs found running at large within the Municipality without a collar or harness or without a current and valid license as required by this Article are hereby declared a public nuisance. Uncollared or unlicensed dogs found running at large may be destroyed by the Municipality or may be impounded in any suitable Animal Shelter by any Humane Officer designated by the Municipality, any Law Enforcement Officer, or any Municipal Officer or employee at the direction of the Mayor or the Municipal Clerk. (*ref. 17-526, 54-605 RS Neb.*)

§6-114 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

- A. DANGEROUS AND POTENTIALLY DANGEROUS DOGS; PROHIBITED: It shall be unlawful for any person to keep or harbor a dangerous or a potentially dangerous dog within the City without complying with the provisions of this Chapter.
- B. DANGEROUS AND POTENTIALLY DANGEROUS DOGS; PROCEDURE: Whenever it shall come to the attention of the City that any person within the City's corporate limits is keeping or harboring a dangerous dog or a potentially dangerous dog as defined in this Chapter, the City Clerk 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.
- C. REGISTRATION REQUIREMENTS; DANGEROUS DOGS:
 1. The owner of any dangerous dog shall register such dog with the City Clerk 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 the Chapter;
 - c. Written evidence from a licensed veterinarian that the dog is currently neutered or spayed;
 - d. A written acknowledgement that the owner shall notify the City Clerk immediately if said dog is known by the owner to be running at large, unconfined, or when the owner has any knowledge of belief that the dog has bitten or is alleged to have bitten a human being or another animal;
 - e. A written acknowledgement that the owner of said dog shall notify the City Clerk 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 the event the registered owner shall provide the Clerk with the name, address and phone number of such person; and
 - f. A non-refundable annual registration fee of Fifty Dollars (\$50.00), which fee shall be in addition to any other license fee required by this Chapter.
2. Upon satisfactory completion of all the requirements of this section the City Clerk shall issue a registration certificate which shall be used to assign the dog a permanent number. At the time of registration the City Clerk shall either order the owner to have any dangerous dog tattooed by a licensed veterinarian permanently marking the number assigned herein by tattoo upon the inner side of the dangerous dog's right ear or order the owner to have a microchip inserted in any dangerous dog by a licensed veterinarian within thirty (30) days of the date of registration. The owner shall provide the City Clerk with the animal's microchip number within thirty (30) days of the date of the registration. It shall be unlawful for any owner of such dangerous dog to fail to so mark, tattoo or microchip such dangerous dog as provided herein. It shall be unlawful to any person other than a licensed veterinarian to remove any tattoo, microchip or any other marking used for identification.
 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 registration.

D. REGISTRATION REQUIREMENTS; POTENTIALLY DANGEROUS DOGS:

1. The owner of any potentially dangerous dog shall register such dog with the City Clerk and upon registration shall provide the following:
 - a. The name, address, and telephone number of the owner;

- b. A written acknowledgement that the owner shall notify the City Clerk 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 acknowledgement that the owner of said dog shall notify the City Clerk 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, give away, or otherwise transferred to any other person, and in the event the registered owner shall provide the director with the name, address, and telephone number of such person; and
 - d. A non-refundable registration fee of Twenty-Five Dollars (\$25.00), which fee shall be in addition to any other license fee required by this Chapter.
2. Upon satisfactory completion of all the requirements of this section the Clerk shall issue an annual registration certificate which shall be used to assign the dog a permanent number.
 3. The registration requirements including the notification requirements acknowledge 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.

E. 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.
3. 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.
4. The owner of a dangerous dog shall securely restrain such dog by chain or leash when moving the dog to or from such pen or structure.

- F. DANGEROUS DOGS; LEASH REQUIRED: It shall be unlawful for any owner of a dangerous dog 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.
- G. DANGEROUS DOGS; WARNING SIGNS: The owner of a dangerous dog shall display signs warning that there is a dangerous dog on the property. These signs shall be placed 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 shall be conspicuously displayed on any pen or structure provided for such dangerous dog.
- H. DANGEROUS DOGS; CONFISCATION: Any dangerous dog may be immediately confiscated by a City Law Enforcement Officer if in violation of this Chapter. 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. In addition to any other penalty, a Court may order the destruction of a dangerous dog in an expeditious and humane manner.
- I. BITES UNLAWFUL: It shall be unlawful for the owner of any dangerous or potentially dangerous dog required to be registered under this section 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. In addition, any such dangerous dog required to be registered under this section shall be immediately confiscated by a City Law Enforcement Officer, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.
- J. 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 subsection B herein. 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 Director of the Lancaster County Health Department. At such review the owner may present any written statements or documentary evidence relevant to the determination. The director 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. (*Amended by Ord. No. 05-12, 9/6/05*)

§6-115 DOGS; MULTIPLE BITING INCIDENTS; REMOVAL FROM MUNICIPALITY. When any designated Municipal Humane Officer or the Municipal Clerk shall receive verification through the affidavit of any victim or eye-witness to any biting incident by any dog, through the official report of any Humane Officer or Law Enforcement Officer, or shall have first hand personal knowledge that any dog has been involved in two (2) or more biting incidents in which said dog has bitten one (1) or more individuals or animals, he or she shall order that such dog be destroyed or removed from the Municipality (at the option of the owner), within ten (10) days of the date of the most recent biting incident or in the event such dog has been placed under mandatory observation, then immediately upon expiration of any mandatory observation period required under this Chapter. Notice of such order shall be sent by postage prepaid, certified United States mail, return receipt requested to the owner of such dog, shall include a copy of this Section, and shall specify the date on or before which such dog must be destroyed or removed from the Municipality.

Any person who fails to comply with such order shall be deemed guilty of a misdemeanor. If upon trial for violation of this Section, it shall appear to the Judge of the County Court that such person be guilty as charged in said complaint, in addition to the usual judgment or conviction, said Judge may order such disposition of the offending dog as may seem reasonable and proper. When any person shall be charged with violation of this Section, such complaint may not be disposed of by Waiver of Appearance and Plea of Guilty and the complaint filed by the Municipal Attorney shall state such limitation. (*Ref. 17-526 RS Neb.*)

§6-116 DOGS; CAPTURE IMPOSSIBLE. Any designated Humane Officer or any Law Enforcement Officer designated by the Municipality shall have the authority to tranquilize or to kill any dog showing vicious tendencies, or the characteristics of rabies which tendencies or characteristics make capture impossible because of the danger involved when such killing or tranquillizing appears reasonably necessary to prevent injury to any person. (*Ref. 54-605 RS Neb.*)

§6-117 DOGS; LIABILITY OF OWNER; RESTITUTION; PROPERTY DAMAGE OR PERSONAL INJURY; WAIVER DISALLOWED. It shall be unlawful for any person to allow a dog owned, kept, or harbored by him or her, or under his or her charge or control, to injure any person or to destroy any real or personal property of any description belonging to another person. If upon the trial for any violation of Article One (1), Two (2), or Three (3) of this Chapter which involves personal injury or property damage, it shall appear to the Judge of the County Court that the person charged be guilty as charged in said complaint, said Judge may, in addition to the usual judgment and conviction, order the person so offending to make restitution to the party injured in an amount equal to the value of the property so damaged or destroyed together with medical expenses incurred by any injured person or persons. When any person shall be charged with a violation of any provision of this Chapter involving injury to person or damage to real or personal property, such complaint may not be disposed of by way of Waiver of Appearance and Plea of Guilty and the complaint filed by the Municipal Attorney shall state such limitation. (*Ref. 17-526, 54-601, 54-602 RS Neb.*)

§6-118 DOGS; BARKING AND OFFENSIVE. It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, or person, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, street, or alleys in the Municipality. Upon written complaint of two (2) or more affected persons from different households, filed with any thirty (30) day period with the Municipal Clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this Section, the Humane Officer or in his or her absence, the Law Enforcement Official on duty shall investigate the complaint and, if in his or her opinion the situation warrants, shall issue an appropriate citation for violation of this Section. The provisions of this Section shall not be construed to apply to any Animal Shelter or to the place of business of licensed veterinarians. (*Ref. 17-526 RS Neb.*)

§6-119 DOGS; ODORS. No person shall allow any dog or dogs which he or she owns, harbors, or keeps to be maintained in such manner that foul or offensive odors are produced on or around the premises on which such dog is kept. Upon conviction of violation of this Section the Judge of the County Court may declare that such odors constitute a public nuisance, and in addition to the usual judgment or conviction, order the abatement of such nuisance. When any person shall be charged with violation of this Section, such complaint may not be disposed of by Waiver of Appearance and Plea of Guilty and the complaint filed by the Municipal Attorney shall state such limitation. (*Ref. 17-526 RS Neb.*)

§6-120 DOGS; INTERFERENCE WITH POLICE. It shall be unlawful for any person to hinder, delay, or interfere with any Law Enforcement Officer or designated Humane Officer who is performing any duty enjoined upon him or her by the provisions of this Article, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of any animal shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of dogs to such shelter. (*Ref. 28-906 RS Neb.*)

§6-121 DOGS; FIGHTING. It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight.

§6-122 DOGS; KENNELS DEFINED, PROHIBITED. More than three (3) dogs in excess of six (6) months of age, per family or residence, shall constitute a kennel. No kennels shall be maintained within the Municipality; Provided, however, the provisions of this Section shall not apply to any Municipal Animal Shelter, or to hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska, keeping dogs for others for treatment or boarding.

If upon the trial of the offense mentioned in this Section, it shall appear to the County Judge that the person be guilty as charged in said complaint, said Judge may, in addition to the usual judgment of conviction, declare said dog kennel a public nuisance, order the party or parties so convicted to abate said nuisance forthwith, and in the event that the party or parties convicted shall fail to do so, order the Municipal Law Enforcement Personnel to remove to a suitable animal shelter said dog or dogs so kept and harbored in violation of this Section, there to be impounded and placed in suitable homes or disposed of in accordance with the terms of this Article. When a complaint is filed for violation of this Section, such complaint may not be disposed of by Waiver of Appearance and Plea of Guilty, and the complaint filed by the Municipal Attorney shall state such limitation. (*Ref. 17-526 RS Neb.*)

§6-123 DOGS; MUNICIPAL ANIMAL SHELTER, HUMANE OFFICER. The Municipality shall provide a temporary Municipal Animal Shelter. The Mayor may, when necessary, employ or appoint annually a Chief Humane Officer and one (1) or more additional Humane Officers who shall manage the temporary Municipal Animal Shelter, issue citations for violation of the provisions of Article One (1), Two (2), or Three (3) of this Chapter, and perform such duties as the Mayor shall direct and such other duties as may be imposed by Articles One (1), Two (2), or Three (3) of this Chapter. (*Amended by Ord. 02-03, 2/4/02*)

§6-124 DOGS; MUNICIPAL ANIMAL SHELTER, HUMANE OFFICER, CONTRACT WITH HUMANE SOCIETY. The Mayor shall have the authority, with the approval of the City Council, to contract with any Humane Society or like institution to handle boarding and disposal of dogs or other animals required under this Chapter and to perform the duties assigned to Humane Officers under this Chapter and may designate such institution to fulfill the duties of the Humane Officers.

§6-125 DOGS; IMPOUNDING.

- A. It shall be the duty of the Humane Officers or in the event of his, her, or their absence or unavailability it shall be the duty of the Law Enforcement Officer on duty to capture, secure, and remove in a humane manner to a Municipal Animal Shelter or other appropriate shelter any dog violating any of the provisions of this Article, except Section 6-118. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day.

- B. Each impounded dog except those impounded for lack of a current rabies vaccination shall be kept and maintained at an appropriate animal shelter for a period not less than seventy-two (72) hours after notice has been given unless reclaimed earlier by the owner. All dogs impounded for the lack of a current rabies vaccination shall be held for not less than one hundred twenty (120) hours, unless sooner redeemed or released as herein provided, and if not so redeemed or released at the expiration of the time limit of one hundred twenty (120) hours may be destroyed in a humane manner. Unlicensed dogs shall be transported immediately to the Capital Humane Society or other animal shelter for impoundment or disposal as provided hereunder. Dogs licensed as required hereunder shall be held in the Municipal Animal Shelter for no less than twenty-four (24) hours after the notice required hereunder has been mailed and may thereafter be transported to any other appropriate animal shelter. Notice of impoundment of all animals, including any significant marks of identification, shall be posted at the office of the City Clerk and at the Municipal Pound within twenty-four (24) hours after impoundment. And in addition, if the name and/or address of the owner is known to the Municipal Clerk, or is reasonably ascertainable, notice of such impoundment shall be mailed to said owner by postage prepaid, certified United States mail, return receipt requested, within twenty-four (24) hours after impoundment. Such notice shall be deemed to be sufficient if it includes the following:
1. A copy of §6-125 of the Waverly Municipal Code;
 2. The date the dog was impounded;
 3. A description of the dog;
 4. The address and telephone number of the Municipal offices;
 5. The address and telephone number of any other agency or institution which at the time of the notice has, or may in the future have, the physical control of the impounded dog;
 6. The accrued costs to date and an estimate of the costs which are expected to accrue on a daily basis incident to impoundment and/or destruction of the dog; and,
 7. The date, time, and place at which the dog will be destroyed if not claimed.
- C. When any impounded dog is claimed and returned to the owner within twenty-four (24) hours of impoundment, the Municipal Clerk shall not be required to provide the notice which would otherwise be required hereunder.

Any dog may be reclaimed by its owner during the period of impoundment by payment of all accrued impoundment and boarding fees and the cost of certified mailing as provided for in this Article. Upon claiming any such dog, the owner shall be required to comply with the licensing and rabies vaccination requirements before said dog is released. If the dog is not claimed at the end of the applicable waiting period as required by this Section, the Municipality may, after the notice required by this Section has been given, cause the disposal of any such dog in accordance with the applicable rules and regulations pertaining to the same; Provided, however, that if, in the judgment of the Municipality, or its agent or any animal shelter, a suitable home can be found for any such dog within or without the Municipality, said dog shall be turned over to that person and shall not be destroyed and the new owner shall then be required to pay all fees required hereunder and meet all licensing and vaccinating requirements provided in this Chapter. The Municipality shall, after notice and the expiration of the applicable waiting period required by this Section, acquire legal title to any unlicensed dog impounded in the Animal Shelter or other authorized shelter.

- D. All dogs required hereunder to be destroyed shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health. (*Ref. 17-548, 71-4409 RS Neb.*)

§6-126 DOGS; IMPOUNDMENT FEES.

- A. Fees. There shall be a boarding fee of three dollars (\$3.00) per day, or part thereof, payable to the City of Waverly for each day a dog is impounded by the Municipality. In addition there shall be a general impoundment fee of fifteen dollars (\$15.00) for each impoundment of any dog.

All such fees shall be paid to the City of Waverly before any dog is released. In the event the dog is being held by the Capitol Humane Society or other authorized animal shelter, said dog shall not be released until the owner presents a receipt to the authorized animal shelter showing that all fees required hereunder have been paid to the City of Waverly and, in addition, the owner shall pay the daily or flat rate boarding fee charged by the Humane Society or other authorized Animal Shelter.

- B. Dogs, Destruction; Applicable Fees. In the event that any dog is destroyed at the direction of the City of Waverly, the owner of the dog which is destroyed shall, within ten (10) days of the date of the destruction of such dog, pay all applicable pound fees levied by the City of Waverly and/or its agents, and shall pay a reasonable fee for destroying such dog, but no complaint shall be filed in the County Court against the owner of said dog; Provided, however, that in the event that the owner, subsequent to the destruction of his or her dog, shall fail to pay the fees which accrue under this Section, within the time provided herein, he or she shall be deemed to be guilty of a misdemeanor, and the Municipal Attorney shall file a separate complaint against such dog owner for violation of this subsection. When any person shall be charged with violation of this subsection, such complaint may not be disposed of by Waiver of Appearance and Plea of Guilty and the complaint filed by the Municipal Attorney shall state such limitation. If upon the trial for violation of this subsection, it shall appear to the Judge of the County Court that the person charged be guilty as charged in said complaint said Judge may, in addition to the usual judgment or conviction, order the person so offending to pay to the City of Waverly all fees which have accrued under this Chapter in connection with the dog which has been destroyed.

§6-127 DOGS; DUTY TO PLACE UNDER OBSERVATION; WHEN REQUIRED, PROCEDURE.

When any person owning a dog or other animal has been notified by any person injured or by someone in his or her behalf, or has knowledge of said injury, that said person has been bitten or attacked by said dog, or other animal, or when any person owning a dog or other animal has been notified by any person that said dog or other animal has been bitten by a rabid animal, the owner shall immediately place the dog or other animal under the care and observation of the Municipality or a licensed veterinarian the expense thereof to be borne by the owner of such dog, and failure of the owner to submit said dog or other animal within twenty-four (24) hours after notice of said bite or attack to the Municipality or its authorized agent or a licensed veterinarian shall constitute a violation of this Chapter. The Municipality or its agent or a licensed veterinarian shall impound said dog or other animal for care and observation for a period of ten (10) days or for such other period as required by Chapter 71, Article 44, Reissued Revised Statutes of Nebraska, 1943, and the amendments thereto, in compliance with standards adopted by the Board of Health. It shall be lawful for the Municipality or any agent of the Municipality or the custodial veterinarian to destroy in a humane manner any dog or other animal that has been determined by a licensed veterinarian to have rabies, or which has been impounded for observa-

tion after the period of observation has expired unless the owner shall, within five (5) days after notice of the expiration of impoundment has been given, redeem such dog by paying such expense incident to such impounding, observation, or treatment. It shall be illegal for any person to release any dog or other animal held for observation to any person prior to expiration of the period of observation. Before any such dog or other animal is released, the person to whom it is released shall submit proof, in the form of a certificate issued by a licensed veterinarian or other person authorized by law to administer rabies inoculation, that such dog or other animal does not have rabies and has been properly inoculated for rabies. (*Ref. 71-4406 RS. Neb.*)

§6-128 DOGS; ENFORCEMENT. The enforcement of the provisions of this Chapter shall be under the direction of the Mayor. For the purpose of enforcing Articles One (1), Two (2), or Three (3) of this Chapter or abating any nuisance existing hereunder, the designated Humane Officer or any Law Enforcement Officer may enter private premises.

§6-129 DOGS; ANIMAL CONTROL VIOLATION, CITATION.

- A. Whenever a designated Humane Officer of the Municipality or any Law Enforcement Officer shall observe any violation of Articles One (1), Two (2), or Three (3) of this Chapter, it shall be his, her, or their duty to issue an appropriate citation. It shall be the duty of the Municipal Attorney to promptly prosecute all violations of this Article.
- B. At the time of the commission of the alleged violation, the accused may be served with a printed notice requiring him or her to make such appearance on or before the date specified thereon and advising whether execution of a Waiver of Appearance and Plea of Guilty has been made available by the court for such violation. Said notice shall further apprise the accused that upon direct refusal or failure to so appear, a warrant shall be issued for his or her arrest, that he or she must appear at said court during the hours fixed by the Judges of the County Court as shown on said notice.

§6-130 DOGS; GENERAL PROHIBITIONS AND DUTIES

A. It shall be prohibited for any person to permit or allow an animal owned by that person or under that person's custody or control to defecate upon public property, park property, public right-of-way, or the property of another unless such person shall immediately thereafter clean up, remove and dispose of the feces so deposited.

B. It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another. (*Amended by Ord. 02-21, 8/19/02*)

§6-134 DOGS; PENALTY FOR VIOLATION.

- A. Except as otherwise provided herein, any person upon whom a duty is placed by the provisions of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Article, shall be deemed guilty of a Class I Misdemeanor as defined by §6-501 of this Code. If such violation may be and is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be fifty dollars (\$50.00).
- B. Any person upon whom a duty is placed by the provision of §6-112, §6-113, and/or §6-118, of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall vi-

olate any of the provisions of said Sections, shall be deemed guilty of a Class I Misdemeanor as defined by §6-501 of this Code. If such violation may be and is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be ten dollars (\$10.00).

- C. Any person upon whom a duty is placed by the provisions of §6-122 of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of said Section, shall be deemed guilty of a Class I Misdemeanor as defined by §6-501 of this Code.
- D. Any person upon whom a duty is placed by the provisions of §6-110 and §6-114 of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of said Sections, shall be deemed guilty of a Class I Misdemeanor as defined by §6-501 of this Code. If such violation may be and is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be One Hundred Dollars (\$100.00).
- E. Any person upon whom a duty is placed by the provisions of §6-127 of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of said Section, shall be deemed guilty of a Class I Misdemeanor as defined by §6-501 of this Code. If such violation may be and is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be seventy dollars (\$70.00).
- F. Any person upon whom a duty is placed by the provisions of §6-115 of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Section, shall be deemed guilty of a Class I Misdemeanor as defined by §6-501 of this Code.
- G. Each day that a violation of any Section of this Article continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this Article provided. (*Amended by Ord. 02-21, 8/19/02; amended by Ord. No. 05-12, 9/6/05, Ord. 07-05, 5/7/07*)

Article 2. Cats

§6-201 CATS; SHORT TITLE; DEFINITIONS. This Article shall be known as and may be cited as “THE WAVERLY CAT ORDINANCE”. For the purpose of this Article, the following definitions shall prevail:

- A. Cat: The term “cat,” whenever used in this Article, shall mean any cat except feral cats and shall apply to all non-feral cats, whether male or female.
- B. Inoculation, Vaccination, or Vaccination for Rabies: The terms “inoculation”, “vaccination”, or “vaccination for rabies”, whenever used in this Article, shall mean the inoculation of a cat with a vaccine approved by the Lincoln-Lancaster County Department of Health.
- C. Own: The term “own”, as used in this Article, unless otherwise indicated in the text, shall be deemed to mean and include, own, keep, harbor, or have charge, custody, or control of, a cat.

D. Owner: The term “owner”, as used in this Chapter, shall mean any person or persons, firm, association, corporation, or other entity, who shall harbor or permit any cat to be in or about his or her house, store, or enclosure, or to remain to be fed in or about his or her house, store, or enclosure, for a period of ten (10) days or more.

E. Person: The term “person”, as used in this Article, shall mean and include any individual, firm, corporation, association, partnership, or any other entity.

F. Cattery: The term “cattery”, as used in this Article, shall be deemed to mean the house, store, yard, enclosure, or place where more than three (3) cats over the age of six (6)

G. months, are harbored or kept, provided, however, that this definition shall not apply to any animal shelter, nor to the place of business of licensed veterinarians.

G. Spayed Female Cat: The term “spayed female cat”, as used in this Article, shall be construed to include any female cat which has been spayed or otherwise rendered incapable of reproduction.

H. Neutered Male Cat: The term “neutered male cat”, as used in this Article, shall be construed to include any male cat which has been neutered or otherwise rendered incapable of reproduction. (*Amended by Ordinance 03-01, 2/17/03*)

§6-202 CATS; VACCINATION AGAINST RABIES REQUIRED; VACCINATION TAG. Any person within the City owning a cat four (4) months of age or older shall have such cat vaccinated against rabies. Cats, cat owners, veterinarians, and other persons shall be subject to the same requirements which are imposed with regard to vaccination of dogs by the applicable sections of the Waverly Dog Ordinance; Provided, however, that cats shall be vaccinated against rabies at the intervals and with the vaccine or vaccines approved by the Lincoln-Lancaster County Department of Health.

§6-203 CATS; EXCEPTIONS TO RABIES VACCINATION; CATS CONFINED TO A LICENSED CATTERY. The vaccination provisions of this Article shall not apply with respect to cats which are constantly confined within a cattery which is duly licensed under the provisions of this Article; Provided, however, that in the event any cat which is confined to a licensed cattery which is maintained within the Municipality is found running at large and impounded, or the owner cited for allowing said cat to run at large, such cat shall thereafter be vaccinated periodically in accordance with §6-202 of this Code.

§6-204 CATS; LICENSE; LICENSE TAGS; WRONGFUL LICENSING; WEARING OF COLLARS, REMOVAL, IDENTIFICATION; REMOVAL OF LICENSE TAG; EXCEPTIONS TO LICENSE, TRANSIENT CATS. Cats, cat owners, and persons shall be subject to the same requirements and duties imposed upon dogs, dog owners, and persons by the Waverly Dog Ordinance, with respect to licensing; license tags; wrongful licensing; wearing of collars; identification; removal of license tags; and exceptions to license transient cats; Provided, however, that the following exceptions to the above shall apply:

A. License Fees: Cat licenses shall be issued by the Municipal Clerk upon payment of a license fee in accordance with the following schedule:

1. Male Cat - \$20.00

2. Neutered Male Cat - \$10.00
3. Female Cat - \$20.00
4. Spayed Female Cat - \$10.00

- B. License Tags. Cat license tags shall have die-stamped thereon the license number, the words "CAT TAG – WAVERLY, NEBRASKA," and the year for which issued. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year and different in appearance from dog tags for the same year.
- C. Wearing of Collars or Harnesses. It shall be the duty of all persons owning cats to provide such cats with collars or harnesses which are elastic or otherwise constructed so as to prevent cats, to the extent possible, from becoming entangled, trapped, or injured due to the wearing of such collar or harness. *(Amended by Ord. No. 87-14, 9/8/87; 10-05, 5/3/10)*

§6-205 CATS; EXCEPTIONS TO LICENSE; CATS CONFINED TO LICENSED CATTERY. The provisions of this Article with respect to licensing of cats shall not apply to cats constantly confined to a cattery licensed under the provisions of this Article; Provided, however, that in the event any cat which is confined to a licensed cattery which is maintained within the Municipality is found running at large and is impounded or the owner cited for allowing such cat to run at large, such cat shall thereafter be licensed annually in accordance with §6-204 of this Code.

6-206 CATS; PROCLAMATION; KILLING AND POISONING; MISTREATMENT; SEIZURE FOR PROTECTION OF ANIMAL. The requirements and duties imposed upon dogs, dog owners, and persons by the Waverly Dog Ordinance with respect to proclamations by the Mayor, involving public danger involving rabies; killing and poisoning; and injuring of dogs; and seizure of mistreated animals for protection, shall apply to cats, cat owners, and persons with respect to cats.

§6-207 CATS; RUNNING AT LARGE; UNLICENSED.

- A. For the purposes of this Article the term "running at large" is defined to mean any cat which is not confined within a cage, dwelling house, or other structure or enclosure from which a cat is unable to escape.
- B. It is hereby declared unlawful for any owner, keeper, or harbinger of any cat to allow such cat to run at large, unless such cat is currently licensed and a valid registration tag is attached to its collar or harness.

§6-208 CATS; IMPOUNDING.

- A. It shall be the duty of the Humane Officer or in the event of his or her, absence or unavailability it shall be the duty of the Law Enforcement Officer on duty to cause any cat found to be running at large without a collar or harness to which a current and valid registration tag is attached, within the Municipality to be taken up and impounded. No cat found running at large without a collar or harness to which a current and valid registration tag is attached shall be released from impoundment until the owner of said cat shall have obtained a license as provided in this Chapter and the impoundment fee or other fees have been paid or other satisfactory arrangements have been made.

- B. Those portions of the Waverly Dog Ordinance contained within the provisions of §6-125, §6-126, and §6-127 of this Code with respect to impounding, impoundment fees, and observation in the event of biting or attack by dogs shall be applicable to cats, cat owners, and persons.

§6-209 CATS; MULTIPLE BITING INCIDENTS; REMOVAL FROM MUNICIPALITY. The provisions of the Waverly Dog Ordinance with respect to biting incidents set out in §6-115 of this Code shall be applicable to cats, cat owners, and persons.

§6-210 CATS; LIABILITY OF OWNER; RESTITUTION; PROPERTY DAMAGE OR PERSONAL INJURY; WAIVER DISALLOWED. The provisions of the Waverly Dog Ordinance set out in §6-118 of this Code with respect to liability of owners; restitution for property damage or personal injury; and disallowance of waivers shall be applicable to cats, cat owners, and persons.

§6-211 CATS; INTERFERENCE WITH AUTHORITIES. It shall be unlawful for any person to hinder, delay, or interfere with any Law Enforcement Officer or designated Humane Officer who is performing any duty enjoined upon him or her by the provisions of this Article, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of any animal shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of cats to such shelter.

§6-212 CATS; CATTERY REGISTRATION AND LICENSING. More than three (3) cats in excess of six (6) months of age, per family or residence, shall constitute a cattery. No catteries shall be maintained within the Municipality; provided, however, the provisions of this Section shall not apply to any Municipal Animal Shelter, or to hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska, keeping cats for others for treatment or boarding.

If upon the trial of the offense mentioned in this Section, it shall appear to the County Judge that the person be guilty as charged in said complaint, said Judge may, in addition to the usual judgment of conviction, declare said cattery a public nuisance, order the party or parties so convicted to abate said nuisance forthwith, and in the event that the party or parties convicted shall fail to do so, order the Municipal Law Enforcement Personnel to remove to a suitable animal shelter said cat or cats so kept and harbored in violation of this Section, there to be impounded and placed in suitable homes or disposed of in accordance with the terms of this Article. When a complaint is filed for violation of this Section, such complaint may not be disposed of by Waiver of Appearance and Plea of Guilty, and the complaint filed by the Municipal Attorney shall state such limitation. (*Ref. 17-526 RS Neb.*) (*Amended by Ord. 03-01, 2/17/03*)

§6-213 CATS; ANIMAL CONTROL VIOLATION, CITATION.

- A. Whenever a designated Humane Officer of the Municipality or any Law Enforcement Officer shall observe any violation of this Article, it shall be his or her duty to issue an appropriate citation; Provided, however, that a warning citation shall be issued for the first (1st) violation of §6-207 of this Code by any person.

No complaint shall be filed by the Municipal Attorney when any person who is issued a warning citation for violation of §6-207 of this Code shall pay all fees required under this Article and comply with the licensing and vaccination requirements within five (5) days of

issuance of such warning citation. When a warning citation only is mistakenly issued for a second (2nd) or subsequent violation of §6-207 of this Code by any person and in all other cases, it shall be the duty of the Municipal Attorney to promptly prosecute violations of this Article.

- B. At the time of the commission of the alleged violation, the accused may be served with a printed notice requiring him or her to make such appearance on or before the date specified thereon and advising whether execution of a Waiver of Appearance and Plea of Guilty has been made available by the court for such violation. Said notice shall further apprise the accused that upon direct refusal or failure to so appear, a warrant shall be issued for his or her arrest, that he or she must appear at said court during the hours fixed by the Judges of the County Court as shown on said notice.

§6-214 CATS; PENALTY FOR VIOLATION.

- A. Except as otherwise hereafter provided in this Section, any person upon whom a duty is placed by the provisions of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Article, shall be deemed guilty of a Class II Misdemeanor as defined by §6-501 of this Code. If such violation may be and is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be fifty dollars (\$50.00).
- B. Any person upon whom a duty is placed by the provision of §6-207 of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of said Section, shall be deemed guilty of a Class II Misdemeanor as defined by §6-501 of this Code. If such violation may be and is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be twenty-five dollars (\$25.00).
- C. Any person upon who a duty is placed by the provisions of §6-212 of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of said Section, shall be deemed guilty of a Class II Misdemeanor as defined by §6-501 of this Code. If such violation is disposed of a pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be twenty-five dollars (\$25.00).
- D. Any person upon whom a duty is placed by the provisions of §6-208 of this Article which involves failure to submit a cat for observation and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of said Sections, shall be deemed guilty of a Class I Misdemeanor as defined by §6-501 of this Code. If such violation may be and is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be seventy dollars (\$70.00).
- E. Any person upon whom a duty is placed by the provisions of §6-209 of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Section, shall be deemed guilty of a Class I Misdemeanor as defined by §6-501 of this Code.
- F. Each day that a violation of any Section of this Article continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this Article provided. (*Amended by Ord. 07-05, 5/7/07*)

Article 3. Animals Generally

§6-301 ANIMALS; DEFINITIONS AND SHORT TITLE.

- A. This Ordinance shall be known and may be cited as "The Waverly Animal Protection Ordinance." For the purpose of this Article, the following definitions shall prevail.
- B. Person. The word person shall include all natural persons, artificial persons, including, but not limited to, firms, partnerships, associations, corporation, companies, political and corporate bodies, societies, communities, the public generally, individuals, joint stock companies, and shall include all aggregate organizations of any character whatsoever.
- C. Pet Shop. The term "pet shop" shall mean any commercial retail establishment or premises or part thereof maintained for the purchase, sale, or breeding of animals of any type, and shall also include any places where cleaning, caring, and grooming services are provided for animals; Provided, however, that the term shall not include livestock auction houses, the place of business of licensed veterinarians, boarding kennels, or animal shelters.
- D. Owners. The term "owner" as used in this Article, shall mean any person or persons, who shall harbor or permit any animal to be in or about his, her, or its house, store, or enclosure, or to remain to be fed in or about his, her, or its house, store, or enclosure for a period of ten (10) days or more.
- E. Animal. The term "animal" shall mean any vertebrate member of the animal kingdom, excluding humans.
- F. Unusual Animal. The term "unusual animal" shall mean any poisonous or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the City of Waverly, State of Nebraska, or by Federal requirements, and also:
1. Class Mammalia; Order Carnivora, Family Felidae, (Such as lions, tigers, jaguars, leopards, and cougars) except commonly accepted domesticated cats and hybrids involving same; Family Canidae, (such as wolves, coyotes, and fox) except domesticated dogs and hybrids involving same; Family Mustelidae, (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers); Family Procyonidae, (such as raccoon); Family Ursidae, (such as bears); Order Primata (such as monkeys and chimpanzees); and, Order Chiroptera (such as bats).
 2. Poisonous reptiles, cobras, and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotalidae, Viperidae); boonslang and kirtland's tree snake; and gila monster (Heleodermatidae).
- G. Livestock. The term "livestock" shall mean any domestic cattle, horses, mules, donkeys, sheep, goats, swine, or fowl.
- H. Chicken. The term "chicken" shall mean a domesticated chicken (*Gallus domesticus*).
(Amended by Ord. 10-01, 3/15/10)

§6-302 ANIMALS; UNUSUAL ANIMALS AND LIVESTOCK PROHIBITED; EXCEPTIONS. It shall be unlawful for any person to own, harbor, or have under his or its care, custody,

or control any unusual animal or livestock within the corporate limits of the City, except as provided in this Section and Article. It shall be unlawful for any pet shop to sell, give, transfer, import into the corporate limits of the City any unusual animal or livestock.

A. This Section shall not be construed to prohibit:

1. a public zoo, circus, Humane Society, or other public exhibition or carnival from displaying unusual animals or livestock as exhibits;
2. primary or secondary schools, colleges or universities from using unusual animals or livestock for research or teaching;
3. wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission from rehabilitation or sheltering unusual animals;
4. individuals authorized by the State of Nebraska from sheltering animals belonging to a public zoo that require rehabilitation; or
5. individuals from owning or possessing chickens provided such ownership and possession complies with Section 6-311 of this Article and all applicable zoning and building regulations. (*Amended by Ord. 10-01, 3/15/10*)

§6-303 ANIMALS; SEIZURE OF UNUSUAL ANIMALS; IMPOUNDMENT; FEES; DISPOSITION.

- A. When any unusual animal is off of the premises and not under the direct physical control of the owner or is infected with a disease posing a threat to the public health and safety as determined by any Humane Officer or Law Enforcement Official, the same are hereby empowered to seize such animal. Such unusual animal may be impounded and in the case of the impoundment of such an animal it shall be subject to the same impoundment fees and costs and the owner shall be notified in substantially the same manner as provided for unlicensed dogs under the provisions of the Waverly Dog Ordinance as the same may be amended from time to time and at any time; Provided, however, in the event that the City Clerk determines that such animal should be sold, the owner shall, in addition to any other notice requirement imposed hereunder, be informed that unless the animal is claimed and the impoundment fees and all costs incident to impoundment paid within seventy-two (72) hours after notice, the animal will be sold at a time and place to be designated in such notice.
- B. Any such impounded animal shall be kept and maintained at the Municipal Animal Shelter or other appropriate place for a period of seventy-two (72) hours after notice or from the time it becomes eligible for release, whichever is later. If the owner shall fail to claim the animal within the above-specified time period, title to such animal shall immediately vest in the City of Waverly, Nebraska, and the City Clerk may sell, destroy, or otherwise dispose of such animal as he or she shall deem appropriate.
- C. In the event of sale, any funds received, less expenses and pound fees and costs incurred by the City of Waverly, Nebraska, shall be paid to the owner, any deficiency shall be the responsibility of the owner and shall be paid to the City of Waverly, Nebraska, within ten (10) days of the date of the sale. In the event the owner fails to claim the proceeds of any such sale, such funds, shall, after deducting expenses and pound fees and costs as aforesaid, be held for the owner by the City Treasurer for a period of one (1) year. If not claimed by the owner within one (1) year, title to said proceeds shall vest in the City of Waverly, Nebraska, and shall be deposited to the general fund. All pound fees collected by the City of Waverly, Nebraska, under this Article shall be deposited to the general fund.

- D. In the event such animal is destroyed, the cost of destruction together with the impoundment fees and other costs incurred by the City of Waverly, Nebraska, shall be paid to the City within ten (10) days of the date such animal is destroyed.
- E. Any impounded animal may be released immediately to the owner upon payment of the impoundment fees and all costs incurred by the City of Waverly, Nebraska, in connection with such impoundment and on the condition that the owner shall immediately remove such animal from the City. In the case of diseased animal, such animal may be released only after a Humane Officer has determined that the health and safety of the public is no longer threatened.
- G. In the event that the owner of any unusual animal, subsequent to the destruction of his/her animal, shall fail to pay the fees which have accrued hereunder, within the time provided, or shall fail to remove such animal from the City after release from impoundment, he/she shall be deemed to be guilty of a misdemeanor, and the Municipal Attorney shall file a separate complaint against such owner for violation of this subsection. When any person shall be charged with violation of this subsection, such complaint may not be disposed of by Waiver of Appearance and Plea of Guilty and the complaint filed by the Municipal Attorney shall state such limitation. If upon the trial for violation of this subsection it shall appear to the Judge of the County Court that such person charged be guilty as charged in said complaint said Judge may, in addition to the usual judgment or conviction, order the person so offending to pay to the City of Waverly, Nebraska, all fees which have accrued under this Chapter in connection with any animal which has been destroyed or, if approved, may order the destruction or removal from the City of any animal which the owner has failed to remove subsequent to release from impoundment.

§6-304 ANIMALS; RUNNING AT LARGE. It shall be unlawful for the owner of any livestock or unusual animal or other animal to permit the same to be driven or run at large on any of the public ways, parks, or other public property, or upon the property of another, or to be tethered or staked out in such manner so as to allow such animal to reach or pass into any public way within the corporate limits of the City of Waverly, Nebraska. (*Ref. 17-547 RS Neb.*)

§6-305 ANIMALS; CRUELTY. It shall be unlawful for any person to torture or torment, or to inhumanely, unnecessarily, or cruelly beat, misuse, overwork, or otherwise abuse any animal or to willfully or cruelly neglect to provide suitable and sufficient sustenance or shelter for such animal or animals at any season of the year within the City. (*Ref. 28-1001, 28-1002 RS Neb.*)

§6-306 ANIMALS; KILLING AND INJURING. No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal. (*Ref. 28-1001, 28-1002 RS Neb.*)

§6-307 ANIMALS; ANIMAL FIGHTS. It shall be unlawful for any person or persons within the limits of the City of Waverly, Nebraska, to set dogs or other animals or fowls to fighting, by agreement or otherwise, or in any manner to urge, forward, or encourage the same.

§6-308 ANIMALS; SELLING DYED ANIMALS. No wild or domestic animal or fowl that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered or given as a prize, premium, or advertising device, or displayed in any store, shop, carnival, or other public place.

§6-309 ANIMALS; DOMESTICATED DOGS AND CATS; SKINNING; SELLING OF SKINS; PROHIBITED. It shall be unlawful for any person to skin, or to buy or sell, or to attempt to buy or sell, the skin or skins of any domesticated dog or cat within the City of Waverly, Nebraska, or to cause such animal to be skinned, or to cause such skin to be bought or sold within the City of Waverly, Nebraska.

§6-310 ANIMALS; ENFORCEMENT. The enforcement of the provisions of this Chapter shall be under the direction of the Mayor, the Humane Officers and the Law Enforcement Officials. For the purpose of enforcing this Chapter or abating any nuisance existing hereunder, any Humane Officer or Law Enforcement Official may enter private premises.

§6-311 ANIMALS; CHICKENS; PERMIT REQUIREMENTS; RESTRICTIONS.

- A. It shall be unlawful for any person to permit or allow any chicken to run or fly at large within the corporate limits of the City.
- B. It shall be unlawful for any person to own, keep, harbor, or have under his or its care, custody or control any cock or rooster chicken two (2) months of age or older. The unlawful keeping or harboring of cocks or roosters is hereby declared to be a public nuisance.
- C. It shall be unlawful for any person to own, keep, harbor, or have under his or its care, custody or control any chicken without a valid annual permit issued by the City. The fee for an annual chicken permit shall be established by the City. No permit shall be assignable or transferable either as to permittee, location or chickens.
- D. The requirements for the issuance of a permit by the City to own, keep, harbor, or have custody or control over a chicken are:
 - a. No more than three (3) chickens shall be permitted on any lot of one (1) acre or less. No more than four (4) chickens shall be permitted on any lot of more than one (1) acre.
 - b. The chickens must be housed in a chicken facility and run approved by the City, such chicken facility and run to be maintained in compliance with all of the City's requirements as a condition of the permit. The requirements for the chicken facility and run include:
 - i. The chicken facility and run must be in good repair, capable of being maintained in a clean and sanitary condition, free of vermin, obnoxious smells and substances;
 - ii. The chicken facility and run shall not constitute a nuisance or disturb neighboring residents due to noise, odor or threats to public health;
 - iii. The chicken facility and run shall prevent chickens from roaming at large;
 - iv. The run shall be constructed to include metal wire fencing anchored to the ground and a fully-enclosed roof or similar enclosure to prevent escape by chickens and entry by predators and general members of the public;
 - v. The chicken facility shall be constructed of durable material and the flooring of any chicken facility shall be of a waterproof hard-surface non-porous material;
 - vi. The chicken facility shall provide not less than three (3) cubic feet per occupant chicken, and the run shall provide not more than five (5) cubic feet per occupant chicken;
 - vii. The chicken facility and run shall be located so as to be at least thirty (30) feet from any dwelling, sidewalk, street, alley, road, public building, park or recreation area; and

- viii. The chicken facility and run shall comply with all applicable City building and zoning codes and must be consistent with the requirements of any land use regulation.
 - c. Offal, manure and waste material shall not be permitted to accumulate nor be confined in any manner that is conducive to the breeding or attraction of flies, mosquitoes or other noxious insects or in any manner that endangers the public health or safety. All permit applicants must provide a statement of the method in which offal, manure and waste material accumulating from the chickens will be sanitarily disposed of at least once every seven (7) days;
 - d. All grain, feed and feedstuffs intended for use as food for chickens shall be kept in tightly-fitted containers constructed to keep out vermin and wild animals; and
 - e. The permit application shall be accompanied by adequate evidence, as determined by the City, that the applicant has notified all property owners and residents within 150 feet of the property lines of the property on which the chickens will be located, of the application. The City may consider resident objections in deciding whether to issue a permit under this Section.
- E. The slaughtering or destruction of chickens within the corporate limits of the City shall be prohibited. *(Amended by Ord. 10-1, 3/15/10)*

§6-312 ANIMALS; PENALTY FOR VIOLATION. Except as otherwise provided in herein, any person upon whom a duty is placed by the provisions of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Article, shall be deemed guilty of a Class II Misdemeanor as defined by §6-501 of this Code. If such violation may be and is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be fifty dollars (\$50.00). Each day such violation continues shall be deemed a separate offense. *(Amended by Ord. 07-05, 5/7/07; Ord. 10-1, 3/15/10)*

Article 4. Miscellaneous Misdemeanors

§6-401 MISCELLANEOUS MISDEMEANORS; DEFINITIONS. For the purpose of this Article, the following definitions shall prevail:

PERSON. The term "person" is hereby defined to include all natural persons, artificial persons, including, but not limited to, firms, partnerships, associations, corporations, limited liability companies, political and corporate bodies, societies, communities, the public generally, individuals, joint stock companies, and shall include all aggregate organizations of any character whatsoever.

PUBLIC PROPERTY. The term "public property" is hereby defined to be any public right of way, street, alley, highway, park, or other State, County, or Municipality owned property.

PRIVATE PROPERTY. The term "private property" is hereby defined to be any privately owned property, which is not included within the definition of public property.

ABANDONED MOTOR VEHICLE. The term abandoned "motor vehicle" is hereby defined to be a vehicle left unattended:

1. Without current number plates affixed thereto for more than six (6) hours on any public property;

2. For more than twenty-four (24) hours on any public property except a portion thereof on which parking is legally permitted;
3. For more than forty-eight (48) hours after the parking of such vehicle shall become illegal;
4. 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.

ENGINE OR COMPRESSION BRAKES. The term "engine or compression brakes" is hereby defined as any means used by which the engine on any motor vehicle is employed as a braking device by containing the engine's compression, thereby resulting in a rapid reduction in the engine's revolutions per minute. *(Amended by Ord. No. 98-18, 12/21/98, 01-07, 6/4/01)*

§6-402 MISCELLANEOUS MISDEMEANORS; LOITERING AND TRESPASSING. It shall be unlawful for any person to loiter on or about or trespass private property without the consent of the owner, tenant, or the agent of said owner or tenant thereof. Any person who violates this Section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-403 MISCELLANEOUS MISDEMEANORS; LOITERING IN PUBLIC PLACES. It shall be unlawful for any person to loiter in or about or in any way obstruct or encumber any public property within the City, by lounging, or otherwise remaining, in or about the same, after being requested to move on by any Law Enforcement Official. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-404 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 prior written authorization from the Governing Body. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Ref. 17-556 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-405 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. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Ref. 17-556 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-406 MISDEMEANORS; FIRECRACKERS. It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers not exceeding seven-eighths inch (7/8") in length or one-eighth inch (1/8") in diameter, and which do not contain more than one half (1/2) grain each in weight of explosive material and any other fireworks which may be approved by the State Fire Marshal pursuant to Section 28-1247 RS Neb.

The above mentioned fireworks shall be discharged, exploded or used within the City of Waverly, only from June twenty-eight (28) through and including July four (4) of each year; Pro-

vided, it shall be unlawful to discharge, explode, or use such fireworks on said dates before eight (8:00) a.m. and after eleven (11:00) p.m., except on July four (4) when such fireworks may be lawfully discharged, exploded, or used between the hours of eight (8:00) a.m. and twelve (12:00) midnight. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Amended by Ord. 01-07, 6/4/01, 07-05, 5/7/07)*

§6-407 MISDEMEANORS; DISTURBING THE PEACE. It shall be unlawful for any person or persons to assemble or gather within the Municipality with the intent to do an unlawful or disorderly act or acts, by force or violence against the Municipality, or residents therein, or who shall disturb the public peace, quiet, security, repose, or sense of morality. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Ref. 28-818 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-408 MISDEMEANORS; DISORDERLY CONDUCT. It shall be unlawful to knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct oneself in such a way as to breach the peace. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Ref. 17-129, 17-556 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-409 MISDEMEANORS; MALICIOUS MISCHIEF. It shall be deemed a misdemeanor for any person to willfully destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, structure, or thing of value which is located upon any government property, cemetery, or property of historic value. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code.

Any such offender shall also be liable, in an action for trespass in the name of the beneficial holder of said property, for all damages, which arise from the commission of such unlawful act. *(Ref. 12-519 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-410 MISDEMEANORS; PUBLIC INDECENCY AND INDECENT EXPOSURE. It shall be unlawful for any person, in a public place or on private premises, and under circumstances in which he or she knows or reasonably should know that his or her conduct may readily be observed from either a public place or other private premises, (a) to perform an act of sexual penetration; (b) to fondle or caress the genitals of another person of the same or opposite sex; or (c) to intentionally or recklessly expose his or her genitals in such a manner or under such circumstances as to affront or alarm another person. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-411 MISDEMEANORS; WINDOW PEEPING. It shall be unlawful for any person to go upon the private premise of another to look or peep into any window, door, or other opening in a building occupied by any other person. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-412 MISDEMEANORS; LITTERING. It shall be unlawful for any person to throw, cast, lay, or drop on any public way or property any paper, scrap material, or other waste whatsoever, except in containers expressly for that purpose. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§6-413 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, ground cover or other obstruction inconvenient to, or inconsistent with, the public use of the same. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. (*Amended by Ord. 01-07, 6/4/01, 02-03, 2/4/02, 07-05, 5/7/07*)

§6-414 MISDEMEANORS; WEEDS, LITTER, STAGNANT WATER.

- A. The owner or occupant of any lot or piece of ground within the Municipality shall drain or fill the lot or piece of ground 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 Municipality shall keep the lot or piece of ground and the adjoining street and alleys free of any growth of twelve inches (12") or more in height of weeds, grasses, or worthless vegetation, and free of any growth of eight inches (8") or more in height if, within the same calendar year, the Municipality has previously acted to remove weeds, grasses, or worthless vegetation exceeding twelve inches (12") in height on the same lot or piece of ground and south recovery of the costs and expenses of such work from the owner or occupant.
- C. The throwing, depositing, or accumulation of litter on any lot or piece of ground within the Municipality is prohibited; Provided 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 eight inches (8") or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground located within the corporate limits during any calendar year if, within the same calendar year, the city has previously acted to remove weeds, grasses, or worthless vegetation exceeding twelve inches (12") in height 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 to litter or cause litter to be deposited or remain thereon except in property or to remain thereon except in property receptacles.
- E. Any owner or occupant of a lot or piece of ground shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code.
- F. 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. In the event that the owner of the lot or parcel of land abutting said sidewalk space within the Municipality is a non-resident of the Municipality or cannot be found therein the notice may be given to any person having the care, custody, or control of such lot or parcel of land. In the event that no one within the Municipality to whom notice can be given, it shall be the duty of the Building Inspector or his or her agent to post a copy of the notice on the premise. Within five (5) days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the Municipality or fails to comply with the order to abate and remove the nuisance, the Municipality may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the Municipality 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 the purposes of this section:

(a) Litter shall include, but not limited to: (i) Trash, rubbish, refuse, garbage, paper, rags, and ashes; (ii) Wood, plaster, cement, brick, or stone building rubble; (iii) Grass, leaves, and worthless vegetation; (iv) Offal and dead animals; and (v) 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

(b) Weeds shall include, but not be limited to, bindweed (con volvulus ardens), 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), bucktorn (rahmnus sp.) (tourn), hemp plant (canna-bis sativa), and ragweed (ambrosiaceae). (*Ref. 17-563.01, 18-1719 RS Neb.*) (*Amended by Ord. No.92-3, 5/4/92, 01-07, 6/4/01, 02-03, 2/4/02, 07-05, 5/7/07; 10-06, 5/17/10*)

§6-415 MISDEMEANORS; ABANDONED AUTOMOBILES. It shall be unlawful to abandon any automobile on the Municipal streets, highways, alleys, parks, or other property.

- A. If an abandoned vehicle at the time of abandonment has no number plates of the current license year affixed or valid registration and is of a wholesale value, taking in consideration the condition of the vehicle, of one hundred dollars (\$100.00) or less, title shall immediately vest in the City of Waverly.
- B. Except for vehicles governed by Section 6-415(A) of this code, the Law Enforcement Official shall make an inquiry as follows concerning the last registered owner of each abandoned vehicle in its custody:
1. An abandoned vehicle with number plates affixed, to the jurisdiction which issued such number plates; or,
 2. An abandoned vehicle with no number plates affixed, to the Nebraska Department of Motor Vehicles.
- C. The Law Enforcement Official shall give notice to the last registered owner, if any, that the vehicle in question has been recovered as an abandoned vehicle and that, if unclaimed, it will be sold at public auction after five (5) days from the date such notice was mailed. If a lien or mortgage exists, such notice shall also be sent to the lien holder or mortgage. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. Notice required by this subsection shall be either by personal service or by certified mail. If the owner, lien holder, or mortgage of such abandoned vehicle is known and does not claim the automobile within five (5) days from the date such notice was mailed, or if word is received by the Municipality from the agency described in Section 6-

415(B) that the owner is unknown, title shall immediately vest in the City of Waverly and the vehicle may be sold.

- D. Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the City shall be held by the Municipality without interest, for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such two (2) year period, such proceeds shall then be paid into the General Fund of the Municipality.
- E. The last registered owner of an abandoned vehicle shall be liable to the City of Waverly for the cost of removal and storage of such vehicle.
- F. Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle shall be removed nor the State of Nebraska nor the City of Waverly shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the City, or as a result of any subsequent disposition.
- G. Any person who abandons a motor vehicle as hereinbefore defined shall be deemed to be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. (*Ref. 60-1901 through 60-1911 RS Neb.*)(*Amended by Ord. 01-07, 6/4/01, 02-03, 2/4/02, 07-05, 5/7/07*)

§6-416 MISDEMEANORS; CURFEW. It shall be unlawful for any minor under the age of seventeen (17) years to travel on or be on any public street, alley, or other public place, between the hours of twelve (12:00) o'clock midnight of any day and five (5:00) o'clock a.m. of the following day except under the following circumstances:

- A. The minor is accompanied by a parent, a legal guardian, a person who stands in loco parentis to the minor, or a person to whom legal custody has been given by court order.
- B. The minor is accompanied by an adult authorized by the parent to take the parent's place in accompanying the minor for a designated period of time and specific purpose within a specified area;
- C. The minor is exercising first amendment rights protected by the Constitution of the United States, such as free exercise of religion, freedom of speech, and the right of assembly;
- D. In case of a bona fide emergency;
- E. The minor is traveling to or returning home from, and within thirty minutes of the commencement or termination of employment.

Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. (*Amended by Ordinance No. 90-10, 12/17/90, 01-07, 6/4/01, 07-05, 5/7/07*)

§6-417 MISDEMEANORS; PARK HOURS. It shall be unlawful for any person to loiter, wander, stroll, loaf, or play in or upon any of the City parks between the hours of twelve (12:00) o'clock midnight on any day and five (5:00) o'clock a.m. of the following day. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. (*Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07*)

§6-418 MISDEMEANORS; USE OF ENGINE OR COMPRESSION BRAKES. Except in emergency situations, it shall be unlawful for any person to use engine or compression brakes within the Municipality. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §6-501 of this Code. (*Ord. No. 98-18, 12/21/98, 01-07, 6/4/01, 07-05, 5/7/07*)

§6-419 WEAPONS; CARRYING CONCEALED WEAPONS.

- A. Any person violating Section 6-415(G) of this Code shall be deemed guilty of a Class II Misdemeanor as defined by §6-501 of this Code. If such violation is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be twenty-five dollars (\$25).
- B. Any person violating sections 6-402 or 6-403 of this Code shall be deemed guilty of a Class II Misdemeanor as defined by §6-501 of this Code. If and only if such violation is a first (1st) offense, the same may be disposed of pursuant to a Waiver of Appearance and Plea of Guilty, then, and in that event, the fine shall be twenty-five dollars (\$25).
- C. This section shall not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon the defendant is carrying is a handgun defined as any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand.
- D. Wherever the term “firearm” is used in this section, the term shall mean any instrument used for the propulsion of shot, shell or bullets or other harmful objects by the action of gunpowder exploded within it, or by the action of compressed air within it, or by the power of springs and including what are commonly known as air rifles and B-B guns and shall also include sling shots, wrist rockets and bows and arrows, the latter having a pull in excess of twenty (20) pounds. (*Ord. No. 60418, 07-02, 4/2/07, 07-05, 5/7/07*)

§6-420 MISCELLANEOUS MISDEMEANORS; PENALTIES.

- A. Any person violating section 6-415(G) of this Code shall be deemed guilty of an infraction and upon conviction thereof shall be subject to a fine of twenty dollars (\$20.00), plus costs, and shall stand committed to jail until such fine and costs be paid or otherwise discharged according to law. If such violation is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be twenty dollars (\$20.00).
- B. Any person violating sections 6-402 and 6-403 of this Code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00), plus costs, and shall stand committed to jail until such fine and costs be paid or otherwise discharged according to law. If and only if such violation is a first (1st) offense, the same may be disposed of pursuant to a Waiver of Appearance and Plea of Guilty, then, and in that event, the fine shall be fifteen dollars (\$15.00). (*Ord. 07-02, 4/2/07*)

Article 5. Penal Provision

§6-421 MISDEMEANORS; URINATING OR DEFECATING IN PUBLIC; PROHIBITED. It shall be unlawful for any person to urinate or defecate on a public street, alley, or any other property, public or private, open to or visible to the public. This section shall not apply to urinating or defecating in any restroom facility in a manner for which that facility was designed. (*Ord. 13-04, 5/21/13*)

§6-501 VIOLATION; PENALTY. Unless expressly provided otherwise, for purposes of this Chapter misdemeanors are divided into two (2) classes which are distinguished from one another by the following penalties which are authorized upon conviction.

Class I Misdemeanor Maximum: Five hundred dollar (\$500) fine

Minimum: One hundred dollar (\$100) fine

Class II Misdemeanor Maximum: One hundred dollar (\$100) fine

Minimum: Twenty-five dollar (\$25) fine

(*Amended by Ord.01-07, 6/4/01, 07-05, 5-7-07*)

Article 6. Sexual Predators

§6-601 SEX PREDATORS; FINDINGS AND INTENT.

- A. Sexual predators who use physical violence and prey on children are present an extreme threat to the public safety. Sexual predators are extremely likely to use physical violence or to repeat their offenses. And most sexual predators commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, extremely exorbitant.
- B. 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 where certain sex predators and sexual predators are prohibited from establishing temporary or permanent residence. (*Est. by Ord. 06-07, 6/5/06*)

§6-602 SEX PREDATORS; DEFINITIONS. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning:

- A. *Sexual predator* shall mean an individual who is required to register under the Nebraska Sex Offender Registration Act, who has a high risk of recidivism as determined by the Nebraska State Patrol under Neb.Rev.Stat §29-4013 (2005 Supp.), and who has victimized a person eighteen years of age or younger.
- B. *Reside or residence* shall mean a place where a person abides, lodges, lives or sleeps for five (5) or more aggregate working days.
- C. *Childcare facility* shall mean a facility licensed pursuant to the Nebraska Child Care Licensing Act.

- D. *School* shall mean any public, private, denominations or parochial school that meets the requirements for accreditation or approval prescribed by Nebraska law. (*Est. by Ord. 06-07, 6/5/06*)

§6-603 SEX PREDATORS; SEX OFFENDER RESIDENCE PROHIBITION; PENALTIES; AND EXCEPTIONS.

- A. *Prohibited location of residence.* It is unlawful for any sexual predator to reside within 500 feet of any school or childcare facility.
- B. *Measurement of distance.* For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the residence to the nearest outer property line of a school or childcare facility.
- C. *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$500.00
- D. *Exceptions.* A person residing within 500 feet of any school or childcare facility does not commit a violation of this section if any of the following apply:
- (1) The person was a minor when he/she committed the offense or is a minor and not subject to the Nebraska Sex Offender Registration Act because they were not convicted as an adult.
 - (2) The person resides within a prison or a correctional or treatment facility operated by the State or a political subdivision;
 - (3) The person established their residence before July 1, 2006, and has not moved from that residence; or
 - (4) The person established a residence after July 1, 2006, and the school or childcare facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (*Established by Ord. 06-07, 6/5/06*)