

Chapter 6

POLICE REGULATIONS

Article 3. Miscellaneous Misdemeanors

§6-301 MISDEMEANORS; CRIMINAL MISCHIEF.

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

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

(B) Criminal mischief is an offense:

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

(2) If the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than five hundred dollars (\$500.00) or if his or her action results in no pecuniary loss. (*Ref. 28-519 RS Neb.*)(*Amended by Ord Nos. 527, 10/14/03; 650,12/18/15*)

§6-302 MISDEMEANORS; CRIMINAL TRESPASS.

(A) A person commits first degree criminal trespass if:

(1) He or she enters or secretly remains in any building or occupied structure, or any separately secured or occupied portion thereof, knowing that he or she is not licensed or privileged to do so; or

(2) He or she enters or remains in or on a public power infrastructure facility knowing that he or she does not have the consent of a person who has the right to give consent to be in or on the facility.

(B) First degree criminal trespass in a Class I misdemeanor.

(C) For purposes of this section, PUBLIC POWER INFRASTRUCTURE FACILITY means a power plant, an electrical station or substation, or any other facility which is used by a public power supplier as defined in section 70-2103 RS Neb. to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed.

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

(a) Actual communication to the actor; or

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

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

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

(3) Second degree criminal trespass is a Class II misdemeanor if the offender defies an order to leave personally communicated to him or her by the owner of the premises or other authorized person. (*Ref. 28-520, 28-521 RS Neb.*)

§6-303 MISDEMEANOR; IMPERSONATING A PUBLIC SERVANT. It shall be unlawful for any person to falsely pretend to be a public servant other than a peace officer and perform any act in that pretended capacity. It is no defense that the office the actor pretended to hold did not in fact exist. *(Ref. 28-609 RS Neb.)*

§6-304 MISDEMEANORS; IMPERSONATING A PEACE OFFICER. It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity. *(Ref. 28-610 RS Neb.)*

§6-304.01 MISDEMEANORS; OBSTRUCTING A PEACE OFFICER.

(A) A person commits the offense of obstructing a peace officer when, by using or threatening to use violence, force, physical interference, or obstacle, he or she intentionally obstructs, impairs, or hinders:

(1) The enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of his or her official authority; or

(2) A police animal assisting a peace officer acting pursuant to the peace officer's official authority.

(B) For purposes of this section, POLICE ANIMAL means a horse or dog owned or controlled by the state or any county, city, or village for the purpose of assisting a peace officer acting pursuant to his or her official authority. *(Ref. 28-906 RS Neb.)(Ord. No. 635, 5/12/14)*

§6-305 MISDEMEANORS; DISTURBING THE PEACE. It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. *(Ref. 28-1322 RS Neb.)*

§6-306 MISDEMEANORS; MAINTAINING A NUISANCE. It shall be unlawful for any person to erect, keep up or continue and maintain any nuisance to the injury of any part of the citizens of the Municipality. *(Ref. 18-1720, 28-1321 RS Neb.)*

§6-307 MISDEMEANORS; APPLIANCES IN YARD. It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless he shall first remove all doors and make the same reasonably safe. *(Ref. 18-1720, 28-1321 RS Neb.)*

§6-308 MISDEMEANORS; WEEDS, LITTER, STAGNANT WATER.

(A) Lots or pieces of ground within the Municipality or within its one (1)-mile zoning jurisdiction shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the Municipality or within its one (1)-mile zoning jurisdiction shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of twelve inches (12") or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the Municipality or within its one (1)-mile zoning jurisdiction is prohibited.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of twelve inches (12") or more in height or weed, grasses, or worthless vegetation on any lot or piece of ground within the

Municipality or within its one (1)-mile zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

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

(F)(1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any. The Municipality shall establish the method of notice by ordinance. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five (5) days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the Municipality to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the Municipal Clerk. A hearing on the appeal shall be held within fourteen (14) days after the filing of the appeal and shall be conducted by an elected or appointed officer as designated in the ordinance. The hearing officer shall render a decision on the appeal within five (5) business days after the conclusion of the hearing. If the appeal fails, the Municipality may have such work done. 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.

(2) The costs and expenses of any such work shall be paid by the owner. If unpaid for two (2) months after such work is done, the municipality may either:

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

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

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

LITTER. Includes but is not limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation except when used as ground mulch or in a compost pile;

(d) Offal and dead animals;

(e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

WEEDS. Include, but are not limited to: bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halpense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonshus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*), (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*). (*Ref. 17-563 RS Neb.*)(*Ord. Nos. 139, 11/7/62; 215, 9/8/81*)(*Amended by Ord. No. 285, 3/10/92; 560, 1/11/05; 625, 4/8/14; 660, 12/8/15*)

§6-309 MISDEMEANORS; DISEASED OR DYING TREES. *(Repealed by Ord. No. 342, 3/14/95)*

§6-310 MISDEMEANORS; WEED AND TREE REMOVAL; COST. In the event that the Municipality shall cut or remove any weeds or trees pursuant to sections 6-308 and 6-309 of this Code, the cost assessed shall be twenty-five dollars (\$25.00) per hour, and the minimum cost assessed shall be twenty-five dollars (\$25.00).

§6-311 MISDEMEANORS; RAISING OR PRODUCING STAGNANT WATER. It shall be unlawful for any person to build, erect, continue or keep up any dam or other obstruction in any river or stream of water in this state and thereby raise an artificial pond, or produce stagnant waters, which shall be manifestly injurious to the public health and safety. *(Ref. 28-1303 RS Neb.)*

§6-312 MISDEMEANORS; PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK OR STREAM. It shall be unlawful for any person to put any dead animal, carcass or part thereof or other filthy substance into any well, or into any spring, brook or branch of running water, of which use is made for domestic purposes. *(Ref. 28-1304 RS Neb.)*

§6-313 MISDEMEANORS; DISCHARGE OF FIREARMS. It shall be unlawful for any person, except an officer of the law in the discharge of his official duty, to fire or discharge any gun, pistol, or other fowling piece within the Municipality; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Governing Body. *(Ref. 17-556 RS Neb.)*

§6-314 MISDEMEANORS; SLINGSHOTS, AIR GUNS, BB GUNS. It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the Municipality. *(Ref. 17-556 RS Neb.)*

§6-315 MISDEMEANORS; INJURY TO TREES. It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down, or destroy and fruit, ornamental, shade or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the Governing Body to do so, and the written permit of the Governing Body in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. *(Ref. 17-555, 18-806, 28-519 RS Neb.)*

§6-316 MISDEMEANORS; LITTERING.

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

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

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

(2) The word litter as used in this section shall mean all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing. Waste material as used in this section shall mean any material appearing in a place or in a context not associated with that materials function or origin.

(3) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering. *(Ref. 28-523 RS Neb.)(Amended by Ord. No. 343, 3/14/95)*

§6-317 MISDEMEANORS; DISORDERLY CONDUCT. It shall be unlawful for any person to engage in conduct or behavior which disturb the peace and good order of the Municipality by clamor or noise, intoxication, drunkenness, fighting, using of obscene or profane language in the streets or other public places, or is otherwise indecent or disorderly conduct or lewd or lascivious behavior. *(Ref. 17-129, 17-556 RS Neb.)*

§6-317.01 MISDEMEANORS; PUBLIC INDECENCY.

(A) A person, 18 years of age or over, commits the offense of public indecency if such person performs or procures, or assists any other person to perform, in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

1. An act of sexual penetration as defined in Neb. RS 28-318;
2. An exposure of the genitals of the body done with the intent to affront or alarm any person; or
3. A lewd fondling or caressing of the body of another person of the same or opposite sex.

(B) It shall not be a violation of this section for an individual to breast-feed a child in a public place. *(Ref. 28-806 RS Neb.)(Ord. No. 685, 11/12/19)*

§6-318 MISDEMEANORS; OBSTRUCTION OF PUBLIC WAYS. It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to, or inconsistent with, the public use of the same. *(Ref. 17-142, 17-555, 17-557, 39-703, 39-704 RS Neb.)*

§6-319 MISDEMEANORS; OBSTRUCTING WATER FLOW. It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant. *(Ref. 17-555, 17-970 RS Neb.)*

§6-320 MISDEMEANORS; MISREPRESENTATION BY PERSON UNDER THE AGE OF 19 TO OBTAIN TOBACCO. Any person under the age of 19 years who obtains cigars, tobacco, cigarettes, or cigarette material, electronic nicotine delivery systems, or alternative nicotine products from a licensee hereunder representing that he or she is of the age of 19 years or over, is guilty of an offense. *(Ref. 28-1427 RS Neb.)(Ord. No. 687, 11/12/19)*

§6-321 MISDEMEANORS; MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR.

(A) For purposes of this section, the definitions found in section 53-103.01 through 53-13.42 RS Neb. shall apply, including, but not limited to, the definitions of the terms alcoholic liquor, consume, minor, sale, and to sell.

(B) Except as provided in section 10-120 (Alcoholic Beverages; Manufacture, Sale, Delivery, and Possession; General Prohibitions; Exceptions), no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon the property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor as part of a bona fide religious rite, ritual or ceremony or in his or her permanent place of residence.

(C) It shall be unlawful for any person under twenty-one (21) years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. (Ref. 53-180.02 RS Neb.)(Amended by Ord. No. 506, 5/13/02)

§6-322 MISDEMEANORS; ABANDONED AUTOMOBILES.

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

ABANDONED VEHICLE.

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

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

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

1. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
2. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

3. If left unattended for more than seven days on private property if left initially without the permission of the owner, or after permission of the owner is terminated;
4. If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section; or
5. If removed from private property by the Village of Bertrand pursuant to a Bertrand ordinance or this code.

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

(d) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an **ABANDONED VEHICLE** under this division (A).

MOBILE HOME. A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more unites that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit and shall include a manufactured home as defied in Neb. RS 71-4603. **MOBILE HOME** does not include a mobile home or manufactured home for which an affidavit of fixture has been recorded pursuant to Neb. RS 60-169.

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

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

(B) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year of valid In Transit stickers issued pursuant to Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the Village. Any certificate of title issued under this division to the Village shall be issued at no cost to the Village. *(Neb. RS 60-1902)*

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

1. Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or
 2. Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.
- (2) The Village shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed either:
1. It will be sold or will be offered at public auction after five days from the date such notice was mailed; or
 2. Title will vest in the Village 30 days after the date such notice was mailed.

- (3) If the agency described in division (C)(1)(a) or (b) of this section also notifies the Village that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.
 - (4) Title to an abandoned vehicle, if unclaimed, shall vest in the Village:
 1. Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (c)(2)(a) of this section;
 2. Thirty days after the date the notice is mailed if the Village will retain the vehicle; or
 3. If the last-registered owner cannot be ascertained, when notice of such fact is received.
 - (5) After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the Village may retain for use, sell or auction the abandoned vehicle. If the Village has determined that the vehicle should be retained for use, the Village shall, at the same time that the notice, if any is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the Village intends to retain the abandoned vehicle for its use and that title will vest in the Village 30 days after publication.
- (D)(1) If a Village law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.
- (2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.
 - (3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felon or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (*Neb. RS 60-1903.01*)
- (E)(1) A law enforcement agency is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon the information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the procedures in Neb. RS 60-1902 and 60-1903.
- (2) A law enforcement agency is authorized to contact a private towing service in order to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon the information indicating that the vehicle is an abandoned or trespassing vehicle. A vehicle towed away under this subsection is subject to Neb. RS 52-601.01 to 52-605 and 60-2410 by the private towing service which towed the vehicle.
 - (3) A private property owner is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within 24 hours, the designated law enforcement agency in the jurisdiction from which the vehicle is removed and provide the registration plate number, the vehicle identification number, if available,

the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle towed away under this subsection is subject to Neb. RS 52-601.01 to 52-605 and 60-2410 by the private towing service that towed the vehicle.

(4) For purposes of this section, a trespassing vehicle is a vehicle that is parked without permission on private property that is not typically made available for public parking. (*Neb. RS 60-1903.02*)

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

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

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

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

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

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

(L) Any person violating the provisions of this section shall be guilty of an offense.

(*Ord. No. 196, 12/13/77*)(*Amended by Ord. Nos. 462, 7/11/00; 566, 6/13/06; 640, 5/12/15; 681, 8/13/19*)

§6-322.01 MISDEMEANORS; UNLICENSED OR INOPERABLE VEHICLES.

(A) No person in charge or control of any property within the Municipality, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, unlicensed or discarded vehicle to remain on such property longer than thirty (30) days; provided, however, that this prohibition shall not apply to a vehicle in an enclosed building; to a vehicle on the premises of a business enterprise being operated in a lawful place and manner when such vehicle is necessary to the lawful operation of the business; or to a vehicle on which restoration or repair is progressing in an expeditious manner.

1. A hobbyist permit for the restoration or repair of up to two non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes or in preparation of a demolition derby competition may be granted to the resident of such premises as follows:
 - a. Application for the hobbyist permit shall be filed in writing with the Village Clerk on a form provided by the Village and shall contain the name and address of the applicant and the make, model, year and vehicle identification number of each vehicle to be restored or repaired.
 - b. The vehicle(s) to be restored or repaired shall be owned by the applicant.
 - c. The permit shall cover the vehicle(s) only and does not authorize the storage of miscellaneous vehicle parts, scrap, or junk contained in, on or near the vehicle(s). Rather, any and all such vehicle parts, scrap, or junk shall not be allowed to remain upon the premises but shall be immediately discarded from the premises.
 - d. The fee for such hobbyist permit shall be fifteen dollars (\$15.00) per vehicle;
 - e. All such permits shall expire 12 months following the date of issuance thereof. A new permit will need to be obtained after the expiration.
- (B) Any person who shall violate this section, or refuse to comply with the enforcement of any of the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each offense. A new offense shall be deemed to have been committed every twenty-four (24) hours that the person is in violation of or fails to comply with this section.
- (C) Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and the same shall be abated. Whenever a nuisance exists, the Municipality may, in addition to any and all other remedies available at law for the abatement of a nuisance, proceed by a suit in equity to enjoin and abate the same. Whenever, in any action, it is established that a nuisance exists, the Court may together with the fine or penalty imposed, enter an order of abatement as part of the judgment of action.
- (D) This section shall not, in anyway be construed to repeal or be in conflict with the nuisance provisions contained in this Code (see Nuisance and Abatement Ch. 4, Art. 3). Rather, this section supplements the nuisance provisions contained in this Code. *(Ord. No. 409, 10/14/97)(Amended by Ord. No. 582, 7/14/09; 677, 5/14/19)*

§6-323 MISDEMEANORS; SHOOTING HIGHWAY SIGNS, MARKERS OR NOTICES. It shall be unlawful to willfully or maliciously shoot upon the public highway and injure, deface, damage or destroy any signs, monuments, road markers, traffic control or surveillance devices or other public notices lawfully placed upon said highways. *(Ref. 60-6,130 RS Neb.)*

§6-324 MISDEMEANORS; REMOVAL AND POSSESSION OF HIGHWAY SIGNS, MARKERS OR NOTICES. It shall be unlawful for any person, other than those authorized to do so, to remove any sign, traffic control or traffic surveillance device placed along a public street, road or highway for traffic control, warning or informational purposes. Moreover, it shall be unlawful for any person to possess such a sign or device which has been removed in violation of this section. *(Ref. 60-6,130 RS Neb.)*

§6-325 CRIMINAL CODE; INCORPORATED BY REFERENCE. The Nebraska Criminal Code, together with all subsequent amendments thereto, as adopted by the State of Nebraska relating to crimes and punishments are incorporated by reference into this section and made a part of this Article as though spread at large herein, except those provisions in conflict with this Article when the Governing Body has the authority to alter such regulations. One (1) copy of the Nebraska Criminal Code and amendments shall be on file with the Municipal Clerk and shall be available for public inspection at any reasonable time. *(Ref. 18-132 RS Neb.)*

§6-326 MISDEMEANORS; VIOLENCE ON A SERVICE DOG; INTERFERENCE WITH A SERVICE DOG.

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

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

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

(4) Four purposes of this section:

(a) Blind person means a person with totally impaired vision or with vision, with or without correction, which is so severely impaired that the primary means of receiving information is through other sensory input, including but not limited to braille, mechanical reproduction, synthesized speech, or readers;

(b) Deaf person means a person with totally impaired hearing or with hearing, with or without amplification, which is so severely impaired that the primary means of receiving spoken language is through other sensory input, including but not limited to lip reading, sign language, finger spelling, or reading;

(c) Hearing-impaired person means a person who is unable to hear air conduction thresholds at an average of 40 decibels or greater in the person's better ear;

(d) Physically limited person means a person having limited ambulatory abilities, including but not limited to having a permanent impairment or condition that requires the person to use a wheelchair or to walk with difficulty or insecurity to the extent that the person is insecure or exposed to danger; and

(e) Visually impaired person means a person having a visual acuity of 20/200 or less in the person's better eye with correction or having a limitation to the person's field of vision so that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees. *(Ref. 28-1009.01 RS Neb.)(Ord. No. 441, 11/10/98)*

§6-327 MISDEMEANOR; FALSE REPORTING. It shall be unlawful for any person to:

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

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

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

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

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

A person who violates this section commits the offense of false reporting. (*Ref. 28-907 RS Neb.*)(*Ord. No. 442, 11/10/98*)

§6-328 MISDEMEANORS; DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.

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

ALCOHOLIC BEVERAGE.

(a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than 0.5% alcohol by volume; or

(c) Distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(d) ALCOHOLIC BEVERAGE does not include trace amounts not readily consumable as a beverage.

HIGHWAY. A road or street including the entire area within the right-of-way.

LIMOUSINE. A luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five (5) and no more than fourteen (14) persons behind the driver with a physical partition separating the driver seat from the passenger compartment. LIMOUSINE does not include taxicabs, hotel or airport buses or shuttles, or buses.

OPEN ALCOHOLIC BEVERAGE CONTAINER. Except as provided in sections 53-123.04(3) and 53-123.11(1)(c) RS Neb., any bottle can, or other receptacle:

(a) That contains any amount of alcoholic beverage; and

(b) 1. That is open or has a broken seal; or

2. The contents of which are partially removed.

PASSENGER AREA. The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in the area. PASSENGER AREA does not include the area behind the last upright seat of the motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(B) Except as otherwise provided in this section, it is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this Municipality.

(C) Except as provided in section 10-119 of this Code or division (D) of this section, it is unlawful for any person to consume an alcoholic beverage:

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

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

(D) This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the state Public Service Commission and subject to Neb. Admin. Code, Chapter 75, Article 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this Municipality if:

(1) The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and

(2) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area. *(Ref. 60-6,211.08 RS Neb.)(Ord. No. 463, 4/11/00)(Amended by Ord. No. 602, 1/10/12)*

§6-329 MISDEMEANORS; SEX OFFENDERS; FINDINGS AND INTENT.

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

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

(3) It is the intent of this section to serve the Village's compelling interest to promote, protect and improve the health, safety, and welfare of the citizens of the Village by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside. *(Ord. No. 568, 8/8/16)*

§6-330 MISDEMEANORS; SEX OFFENDERS; DEFINITIONS. For the purpose of sections 6-329 through 6-331, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILD CARE FACILITY means a facility licensed pursuant to the Child Care Licensing Act.

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

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

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

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

SEXUAL PREDATOR means an individual who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under section 29-4013 RS Neb., and who has victimized a person eighteen (18) years of age or younger. (*Ord. No. 568, 8/8/06*)

§6-331 MISDEMEANORS; SEX OFFENDERS; RESIDENCY RESTRICTIONS; PENALTIES; EXCEPTIONS.

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

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

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

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

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

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

(c) Established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (*Ord. No. 568, 8/8/06*)

§6-332 MISDEMEANORS; PROSTITUTION.

(A) Except as provided in division (C) of this section, any person who performs, offers, or agrees to perform any act of sexual contact or sexual penetration, as those terms are defined in section 28-318 RS Neb., with any person not his or her spouse, in exchange for money or other things of value, commits the offense of prostitution.

(B) It is an affirmative defense to prosecution under this section that such person was trafficking victim as defined in section 28-830 RS Neb.

(C) If the law enforcement officer determines, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of division (A) of this section is a person under eighteen (18) years of age, such person shall be immune from prosecution for a prostitution offense under this section and shall be subject to temporary custody under section 43-248 RS Neb. and further disposition under the Nebraska Juvenile Code. A law enforcement officer who takes a person under eighteen (18) years of age into custody under this section shall immediately report an allegation of a violation of section 28-831 RS Neb. to the Department of Health and Human Services which shall commence an investigation within twenty-four (24) hours under the Child Protection and Family Safety Act. (*Ref. 28-801 RS Neb.*)(*Ord. No. 622, 4/8/14*)(*Amended by Ord. No. 6-322, 4/14/15*)

§6-333 MISDEMEANORS; USE OF TOBACCO BY MINORS. Whoever, being a person under the age of 19 years, shall smoke cigarettes or cigars, use electronic nicotine delivery systems or alternative nicotine products, or use tobacco in any form whatever in this village, shall be guilty of an offense. Any person charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, electronic nicotine delivery systems, alternative nicotine products, or tobacco. *(Ref. 28-1418 RS Neb.)(Ord. No. 10-128, 4/14/15)(Amended by Ord. No. 689, 11/12/19)*

§6-334 MISDEMEANORS; SALE OF TOBACCO TO MINORS. Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, electronic nicotine delivery systems, or alternative nicotine products to any minor under 19 years of age is guilty of an offense. *(Ref. 28-1419 RS Neb.)(Ord. No. 10-128, 4/14/15)(Amended by Ord. No. 688, 11/12/19)*

§6-335 MISDEMEANORS; MISREPRESENTATION BY MINOR TO OBTAIN TOBACCO. Any person under the age of eighteen (18) years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee hereunder by representing that he or she is of the age of eighteen (18) years or over, is guilty of an offense. *(Ref. 28-1427 RS Neb.)(Ord. No. 10-128, 4/14/15)*

Cross reference:

Tobacco and Cigarettes; Licensing, see §§ 10-701 through 10-707

§6-336 MISDEMEANORS; GAMBLING.

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

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

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

(a) Engaging in bookmaking;

(b) Receiving, in connection with any unlawful gambling scheme or enterprise, any amount of money played in the scheme or enterprise in any 1 day; or

(c) Betting something of value in an amount of \$500 or more with one or more person in one day; *(Ref. 28-1102 and 28-1103 RS Neb.)*

(2) Participates in unlawful gambling as a player by betting less than \$500 in any one day. *(Ref. 28-1104 RS Neb.)*

(C)(1) A person commits the offense of possession of a gambling device if he or she manufactures, sells, transports, places, possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing that it shall be used in the advancement of unlawful gambling activity.

(2) The owner or operator of a retail establishment who is not a manufacturer, distributor, or seller of mechanical amusement devices as defined under the Mechanical Amusement Device Tax Act, shall have an affirmative defense to possession of a gambling device described in division (C)(1) of this section if the device bears an unexpired mechanical amusement device decal as required by such Act. However, such affirmative defense may be overcome if the owner or operator had

actual knowledge that operation of the device constituted unlawful gambling activity at any time such device was operated on the premises of the retail establishment.

- (3) Notwithstanding any other provisions of this division, any mechanical game or device classified by the federal government as an illegal gambling device and requiring a federal Gambling Device Tax Stamp as required by the Internal Revenue Service in its administration of 26 U.S.C. 4461 and 4462, amended July 1, 1965, by Public Law 89-44, is hereby declared to be illegal. *(Ref. 28-1107 RS Neb.)*
- (D) In any prosecution under this section, it shall be an affirmative defense that the writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the advancement of an unlawful gambling activity. *(Ref. 28-1108 RS Neb.)*
- (E) Proof of possession of any gambling device shall be prima facie evidence of possession thereof with knowledge of its contents and character. *(Ref. 28-1109 RS Neb.)*
- (F) It shall be no defense to a prosecution under any provision of this section relating to gambling that the gambling is conducted outside the Village and is not in violation of the laws of the jurisdiction in which it is conducted. *(Ref. 28-1110 RS Neb.)*
- (G) In addition to any other penalty, a sentencing court may order that any money, securities, negotiable instruments, firearms, conveyances, or electronic communication devices, or any gambling devices be forfeited as a part of the sentence imposed if it finds by clear and convincing evidence adduced at a separate hearing in the same prosecution, conducted pursuant to Neb. RS 28-1601, that any or all such property was derived from, used, or intended to be used to facilitate a violation of this section. *(Ref. 28-1111 RS Neb.)*
- (H) In any prosecution for an offense defined in this section, when the defendant's status as a player constitutes an excusing condition, the fact that the defendant was a player shall constitute an affirmative defense. *(Ref. 28-1112 RS Neb.)*
- (I) Nothing in this section shall be construed to:
- (1) Apply to or prohibit watering on the results of horseraces by the pari-mutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings; or
 - (2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or Neb. RS 9-701. *(Ref. 28-1113 RS Neb.)*
- (J) In any prosecution under this section in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine, or other periodically printed publication of general circulation shall be admissible in evidence and shall constitute prima facie evidence of the occurrence of the event. *(Ref. 28-1117 RS Neb.) (Ord. No. 697, 12/10/19)*