



# CITY OF FREMONT NEBRASKA

## ANIMAL CONTROL CITIZEN ADVISORY BOARD MEETING AGENDA July 16, 2020 - 6:00 PM City Council Chambers 400 East Military, Fremont NE

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## MEETING CALLED TO ORDER

### ROLL CALL

**CONSENT AGENDA:** All items in the consent agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Board Member or a citizen so requests, in which event the item will be removed from the consent agenda and considered separately.

1. Dispense with and approve May 20, 2020 Animal Control Citizens Advisory Board Minutes

2. Accept resignation from Mike Semrad

**NEW BUSINESS:** Requires individual associated action

3. Recommendation for Mark Legband to appoint new community member
4. Any violations/ concerns/or positives to be reported from the AG information (email and task from Quinn) in violation to the current contract between the City and DCHS?
5. Any violations/concerns/or positives to report from the City documents?
6. Request from Board member Daniel
  - A. For members names and contact to be listed on city website?
  - B. Additional items to be requested from the DCHS board
    1. Current By-laws with last update
    2. List of Board Members and length on board
    3. List of board meetings and minutes, as well as special meetings
    4. Request of euthanasia of animals from 2017 to current with the name of the veterinary personnel that handled such services
7. Request for Chief of Police report to be submitted to committee (advisory Board) monthly until we dissolve
8. Request and need for standing monthly meeting

**ADJOURNMENT**



## ANIMAL CONTROL CITIZEN'S ADVISORY BOARD MINUTES

May 20, 2020 - 5:00 P.M.

Fremont Municipal Building, 2<sup>nd</sup> Floor Conference Room  
400 East Military, Fremont, Nebraska (attendance is limited) and Zoom

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### REGULAR MEETING:

1. Meeting called to order – Open Meetings Law. The Meeting of the Animal Control Citizen's Advisory Board was called to order and it was stated that a copy of the open meeting law is posted continually for public inspection located near the entrance door by the agendas.
2. Roll call. Roll call showed Members Platt, Kempenar, Semrad, Eaton, Pence, Kracl, Shanahan and Homan present. 8 members present.
3. Introduction of Board members and their skillsets. The members introduced themselves. No action was taken.
4. Elect Chairperson and Vice-chairperson. Moved by Kracl and seconded by Kempenar to elect Shawn Shanahan as the Chairperson. Ayes: Platt, Kempenar, Semrad, Eaton, Pence, Kracl, Shanahan, Homan. Motion carried. Moved by Kempenar and seconded by Platt to elect Quin Eaton as Vice-chairperson. Ayes: Platt, Kempenar, Semrad, Pence, Kracl, Shanahan, Homan, Abstention Eaton. Motion carried.
5. Election of a Secretary. Moved by Platt, seconded by Kempenar to elect Mike Semrad as Secretary. Ayes: Platt, Kempenar, Semrad, Eaton, Pence, Kracl, Shanahan, Homan. Motion carried.
6. Review Animal Control Contract between City and Dodge County Humane Society. Motion by Kracl and seconded by Eaton to request the following documents: Chapter 28 Article 10 of Nebraska Revised State Statutes, reports referenced in section 2a of the Dodge County Humane Society (DCHS) contract going back to September 12, 2017, as well as documents related to sections 1d., 1e. and 1f. of the DCHS contract and items related to sections 16a. and 16d all for the same time period of the DCHS amendment #1 to animal contract. Ayes: Platt, Kempenar, Semrad, Eaton, Pence, Kracl, Shanahan, Homan. Motion carried.
7. Next steps general discussion – Board duties, objectives, tasks, information, documents and meeting requests. Moved by Kracl, seconded by Platt to request the following documents: Chapter 6 of the Fremont Municipal Code, applicable state and federal statutes, State Department of Agriculture records, submissions to the City Council regarding animal control at the May 5, 2020 and May 12, 2020 City Council meetings, the statute which provides public notice requirements for impounded animals, Quin Eaton to provide related statutes and codes, definitions of Animal Control Officer and Animal Control Authority in the Municipal Code – address whether contract fulfills these activities, sales agreement for the DCHS building. Ayes: Platt, Kempenar, Semrad, Eaton, Pence, Kracl, Shanahan, Homan. Motion carried. Moved by

Eaton, seconded by Platt to approve making a request to DCHS under items 16a. and 16b. of the DCHS contract for property, personnel, and financial records for the past five years. Ayes: Platt, Kempenar, Semrad, Eaton, Pence, Kracl, Shanahan, Homan. Motion carried.

8. Set next meeting date and time. Moved by Shanahan and seconded by Kracl to set the next meeting date and time for July 16, 2020 at 6:00 p.m. Ayes: Platt, Kempenar, Semrad, Eaton, Pence, Kracl, Shanahan, Homan. Motion carried.
9. Adjournment. Motion made by Platt, Seconded by Kempenar to adjourn; time: 6:13 PM. Ayes: Platt, Kempenar, Semrad, Eaton, Pence, Kracl, Shanahan, Homan. Motion carried.

APPROVED AND ACCEPTED AS THE OFFICIAL COPY OF THE FREMONT, NEBRASKA ANIMAL CONTROL CITIZEN'S ADVISORY BOARD MINUTES FOR MAY 20, 2020.

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Mike Semrad, Secretary

Shawn Shanahan, Chairperson

DRAFT

July 10, 2020

Effective today, I hereby resign from The City Council appointed Animal Control Committee formed to review the city contract with The Dodge County Humane Society.

I am extremely passionate as to animal rights and will continue to be available for advice, contract questions or anything else concerning animal rights in Fremont. My contact information is listed at the bottom of this notice.

In retirement I've taken on several important projects, all existing well prior to my selection to this committee. I've decided I simply cannot devote the time required to analyze the large amount of information required for an educated and complete analysis because of other projects I have to address.

I have been frustrated with the delay of requested information from both the City and the Fremont Police Department. Much of the requested information was not received until this week, after 2 months since our first meeting.

My reasons for resignation include:

Being the sole caregiver to an elderly couple I've known my entire life, being President of The Nebraska Performing Arts Hall of Fame 501c3, paying attention to a prior home to arrange repairs, remodeling, personal property auction and sale, all affected by Covid-19 restrictions. I must prioritize .

I feel regardless of the committee decision as to contract validity; animal rights issues between the City and The Humane Society will not be resolved. I call on the city council to immediately come up with alternative solutions as to Fremont animal control issues, regardless of this committee recommendation.

Nothing will be resolved if continued reported abuse issues are not addressed should the contract be deemed valid or if the decision is that the contract is invalid.

This must be discussed and alternatives approved now. What does the City do regardless of contract validity? I'd be glad to provide written alternative ideas to assist.

Again, as an owner of 3 rescued dogs, I'm deeply concerned about animal rights. The DCHS Board of Directors need to step up, directly address possible abuses and positives, along with having regular required and open communication with the City about animal abuse allegations, adherence to the city contract, city animal ordinances, as well as state and federal compliance as to animal rights.

Finally, the DCHS Board need to make public a complete independent audit of the DCHS tax returns, deposit balances over the last 3-4 years, valid or invalid disbursements, income and expenses, loans and grant requirements (if any) and restrictions for the use of grant or donation funds, as applicable.

The City needs to address such an audit as it pertains to city contracts, ordinances, and law and legally determine their involvement or not; and if not; who is responsible for oversight.

Thank you:

Michael L. Semrad, Sr

Cell: 402-720-4554

Email: [mikesejradsr@gmail.com](mailto:mikesejradsr@gmail.com)

# Doug Peterson

[Home \(/\)](#) / [Open Government \(/open-government\)](#) / [Outline of Nebraska Open Meetings Act](#)

## Outline of Nebraska Open Meetings Act

The Nebraska Open Meetings Act guarantees that every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies. The information below details Neb. Rev. Stat. §§ 84-1407 through 84-1414 (2014, Cum. Supp. 2018).

BASIC PROVISION

PUBLIC BODIES WHICH ARE COVERED

MEETING DEFINED

PUBLIC MEETINGS BY VIDEOCONFERENCING AND TELEPHONE CONFERENCE CALL

PUBLIC MEETINGS; NOTICE AND AGENDA REQUIRED

EMERGENCY MEETINGS

PUBLIC MEETINGS; MINUTES AND VOTING PROCEDURES

PUBLIC MEETINGS; RIGHTS OF THE PUBLIC ATTENDING

CLOSED SESSIONS OF A PUBLIC BODY

CIRCUMVENTION OF THE OPEN MEETINGS ACT

ACTIONS FOR ENFORCEMENT

CRIMINAL SANCTIONS

## BASIC PROVISION

**A.** The basic statement of our state policy on public meetings is found at Neb. Rev. Stat. § 84-1408. That statute provides, "[i]t is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of the State of Nebraska, federal statutes, and the Open Meetings Act."

1. **History.** Section 84-1408 was passed as a part of LB 325 in 1975. That bill repealed previously existing public meetings provisions and substituted new provisions which were intended to preserve the features of the previous law and strengthen and expand their authority. Government Committee Statement on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session (1975). LB 325 was passed to ensure that all meetings of public bodies would be open to the public, except when protection of the public interest clearly called for a closed session concerning specific matters. *Id.* 2004 Neb. Laws LB 821, § 34 formally established the name of §§ 84-1407 through 84-1414 as the "Open Meetings Act."

2. **Purpose.** The Nebraska open meetings laws are a statutory commitment to openness in government. *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002); *Steenblock v. Elkhorn Township Board*, 245 Neb. 722, 515 N.W.2d 128 (1994); *Grein v. Board of Education of the School District of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984). Their purpose is to ensure that public policy is formulated at open meetings of the bodies to which the law is applicable. *Dossett v. First State Bank, Loomis, NE*, 261 Neb. 959, 627 N.W.2d 131 (2001); *Marks v. Judicial Nominating Commission for Judge of the County Court of the 20th Judicial District*, 236 Neb. 429, 461 N.W.2d 551 (1990); *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979). In Nebraska, the formation of public policy is public business, which may not be conducted in secret. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010); *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993).

3. **Construction.** The open meetings laws should be broadly interpreted and liberally construed to obtain their objective of openness in favor of the public. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010); *State ex rel. Upper Republican Natural Resources District v. District Judges of the District Court for Chase County*, 273 Neb. 148, 728 N.W.2d 275 (2007); *State*

*ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007); *Alderman v. County of Antelope*, 11 Neb. App. 412, 653 N.W.2d 1 (Neb. Ct. App. 2002); *Rauert v. School District I-R of Hall County*, 251 Neb. 135, 555 N.W.2d 763 (1996); *Grein, supra*. The beneficiaries of the openness sought by the Open Meetings Act include citizens, members of the general public, and reporters or other representatives of the news media. *State ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007).

4. **Exceptions.** Section 84-1408 requires open meetings except "as otherwise provided by the Constitution of the State of Nebraska, federal statutes, and the Open Meetings Act." The Attorney General has concluded that the Nebraska Legislature is not covered under the open meetings statutes because the Nebraska Constitution separately provides for public access to that body. Op. Att'y Gen. No. 120 (July 25, 1985).

5. **Subsequent legislative limitations.** The Legislature holds the power to decide the scope of citizen access to governmental meetings. As a result, the Legislature has the right to limit access to public meetings and the effect of the Open Meetings Act through later statutory provisions which provide that certain information in the possession of government should remain confidential without exception or limitation. *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002).

## PUBLIC BODIES WHICH ARE COVERED

B. Under § 84-1409(1), public bodies covered by the public meetings statutes include: (1) governing bodies of all political subdivisions of the State, (2) governing bodies of all agencies of the executive department of state government created by law, (3) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created pursuant to law, (4) all study or advisory committees of the executive department of the state whether of continuing or limited existence, (5) advisory committees of the governing bodies of political subdivisions, of the governing bodies of agencies of the executive branch of state government, or of independent boards, commissions, etc., and (6) "instrumentalities exercising essentially public functions."

1. **History.** The initial portion of § 84-1409(1) defining public bodies was originally part of LB 325 passed in 1975. It has been amended several times to add additional entities to the list of bodies covered, and the Certificate

of Need Review Committee was removed in 1997. *See* 1997 Neb. Laws LB 798; 1989 Neb. Laws LB 429 and LB 311; 1983 Neb. Laws LB 43. The language concerning "instrumentalities exercising essentially public functions" was added in 1989 to reach entities such as the Nebraska Investment Finance Authority. Floor Debate on LB 311, 91<sup>st</sup> Nebraska Legislature, First Session, May 9, 1989, at 6039, 6040.

**2. Cases and Opinions.** A number of cases and opinions of the Attorney General deal with various aspects of the definitions of public body found in § 84-1409(1).

a. "Political subdivision" is not defined within the public meetings statutes. However, the Attorney General has indicated that generally the term denotes any subdivision of a state which has as its purpose carrying out functions of the state which are inherent necessities of government and which have always been regarded as such by the public. 1979-80 Rep. Att'y Gen. 140 (Opinion No. 98, dated April 25, 1979). Presumably, this term includes cities, counties, villages, etc., and their governing boards are covered by the open meetings statutes.

b. In *Nixon v. Madison County Agricultural Society*, 217 Neb. 37, 348 N.W.2d 119 (1984), the Court held that a county agricultural society, organized under the Nebraska statutes, was subject to the provisions of the open meetings law. The Court noted that, although the society at issue resembled a private corporation in some respects, the fact that it had the right to receive support from the public revenue gave it a public character. The agricultural society apparently was an "independent board . . . created by constitution, statute, or otherwise pursuant to law." Based upon the *Nixon* case, the Attorney General concluded that county extension services which have the right to receive support from public revenues are subject to the open meetings law. Op. Att'y Gen. No. 219 (July 24, 1984). Also based upon the *Nixon* case, the Attorney General has indicated that county agricultural societies are subject to the open meetings statutes. Op. Att'y Gen. No. 91007 (January 28, 1991). In addition, Neb. Rev. Stat. § 2-238 requires that result.

c. In *Marks v. Judicial Nominating Commission for Judge of the County Court of the 20th Judicial District*, 236 Neb. 429, 461 N.W.2d 551 (1990), the Court held that the open meetings statutes do not apply to

the activities of a judicial nominating commission which is meeting to select nominees for judicial vacancies. Such a nomination procedure does not involve the formulation of public policy subject to the act.

d. The Nebraska Court of Appeals, in *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), held that the open meetings statutes apply to the governing bodies of all agencies of the executive branch of government, including the Nebraska Environmental Control Council.

e. In *State ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007), the Nebraska Court of Appeals concluded that the electors of a Nebraska township, when assembled at the township's annual meeting, constitute a governing body of the township which is subject to the Open Meetings Act and its provisions concerning notice and preparation of an agenda.

f. The Nebraska Court of Appeals indicated in *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) that a county board of equalization is a public body as defined in § 84-1409. The court also held in that case that when two boards are made up of the same members, the duties and functions of the two boards, rather than their membership, determine if they are the same or separate and distinct bodies.

g. Committees of faculty, administration and students created by the Board of Regents of the University of Nebraska to advise the Chancellor of the University in his administrative/management function with respect to budget cuts were part of the management structure of the University and not public bodies subject to the open meetings statutes. Op. Att'y Gen. No. 92020 (February 12, 1992).

h. In Op. Att'y Gen. No. 11 (January 20, 1983), the Attorney General indicated that the Environmental Control Council is a public body subject to the open meetings law. On the other hand, the Department of Environmental Control is not. Section 84-1409 applies to governing bodies of state agencies, not the agencies themselves.

i. An employee grievance appeal hearing conducted by a hearing officer is not a meeting of a public body since the word "body" is commonly understood to refer to a group or number of persons, and thus does not include an individual conducting a hearing. Op. Att'y Gen. No. 210 (May 16, 1984).

j. In 1989, the Attorney General indicated that the Central Low-Level Radioactive Waste Compact Commission was not subject to the Nebraska open meetings law because it was a multi-state body which was not created by constitution or statute and which was not a governing body of a Nebraska state agency. Op. Att'y Gen. No. 89008 (February 14, 1989). However, Neb. Rev. Stat. § 71-3521 (the Waste Compact agreement itself) provided that meetings of the Compact Commission must be open to the public with reasonable advance publicized notice, and that the Compact Commission must adopt by-laws consistent in scope and principle with the open meetings law of the host state. Section 71-3521 was repealed by 1999 Neb. Laws LB 530, § 2, and Nebraska withdrew from the Central Low-Level Radioactive Waste Compact.

k. A county welfare board is subject to the open meetings law as an independent board created by statute. 1979-80 Rep. Att'y Gen. 351 (Opinion No. 244, dated March 4, 1980).

l. In Op. Att'y Gen. No. 95014 (February 22, 1995), the Attorney General indicated that the Mayor's Citizen Review Board, appointed by the Mayor of Omaha to advise the Mayor with respect to alleged misconduct of police officers, was not subject to the open meetings statutes because it did not fall under the definition found in § 84-1409(1), and because the board was essentially an administrative body which was part of the management structure of the City.

m. In Op. Att'y Gen. No. 93065 (July 27, 1993), the Attorney General concluded that parole reviews under Neb. Rev. Stat. § 83-1,111 may be closed, and are not subject to open meetings requirements.

n. The Excellence in Education Council created to make recommendations to the Governor regarding selection of projects for Education Innovation grants is a public body which is subject to the

open meetings statutes, and its decisions concerning specific recommendations must be done in open session. Op. Att'y Gen. No. 94092 (November 22, 1994).

o. The Quality Jobs Board created under the Quality Jobs Act, Neb. Rev. Stat. §§ 77-4901 through 77-4935 is a public body subject to the Open Meetings Act. Op. Att'y Gen. No. 96071 (October 28, 1996).

p. A County Hospital Authority formed under the Hospital Authorities Act, Neb. Rev. Stat. §§ 23-3579 through 23-35,120 is a public body which is subject to the Open Meetings Act. Op. Att'y Gen. No. 97012 (February 14, 1997).

q. The Nebraska State Board of Agriculture (the State Fair Board) is not a public body which is subject to the Open Meetings Act, primarily because it has no statutory right to public revenue and also because of case law which indicates that it is a private corporation. Op. Att'y Gen. No. 01038 (November 27, 2001).

r. A county clerk, county attorney and county treasurer acting as a group under § 32-567(3) to make an appointment to fill a vacancy on a county board constitute a public body which is subject to the Open Meetings Act. Op. Att'y Gen. No. 97050 (September 18, 1997).

s. The Attorney General has indicated informally that the Nebraska Board of Pardons and the Board of Inquiry and Review created under Neb. Rev. Stat. §§ 80-317 through 80-319 to receive and act upon applications submitted for membership in Nebraska Veterans Homes are subject to the state's open meetings statutes.

t. In Op. Att'y Gen. No. 15-016 (October 29, 2015), the Attorney General concluded that the Metropolitan Entertainment & Convention Authority ["MECA"] constituted a hybrid public/private entity subject to the Open Meetings Act. The Attorney General based his conclusion on the fact that MECA was a creation of city ordinance and was responsible for managing and controlling the City of Omaha's public events facilities.

3. **Other Statutes.** Neb. Rev. Stat. § 2-238 requires county agricultural societies and county fair boards to comply with the open meetings statutes. Previously, under Neb. Rev. Stat. § 85-1502 all coordination activities conducted by the association of community college area boards were subject to the open meetings statutes. This provision was repealed in 2013 Neb. Laws LB 211, § 3.

4. **Exceptions.** The latter portion of § 84-1409(1) provides that two entities are not public bodies for purposes of the Open Meetings Act:

a. **Subcommittees.** Subcommittees of the various bodies described earlier in § 84-1409 are not public bodies under the Open Meetings Act unless a quorum of the public body attends a subcommittee meeting, or unless those subcommittees are holding hearings, making policy or taking formal action on behalf of the parent body. For example, in *Meyer v. Board of Regents of the University of Nebraska*, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993), the court indicated that meetings of an executive subcommittee of the University of Nebraska Board of Regents with the University President to discuss his tenure were not subject to the open meetings laws because of that portion of the statute. Section 84-1409(1) was also amended by 2011 Neb. Laws LB 366 to specifically provide that all meetings of subcommittees of the Nebraska Environmental Trust Board established to rate grant applications under Neb. Rev. Stat. § 81-15,175 are subject to the Open Meetings Act.

i. In *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 880-881, 725 N.W.2d 792, 805-806 (2007), the court indicated that, while “subcommittee” is not defined in the Open Meetings Act, a subcommittee is generally a “group within a committee to which the committee may refer business.” In addition, “making policy,” which subjects a subcommittee to the Open Meetings Act under § 84-1409, apparently includes “receiving background information about a policy issue to be decided.” *Id.* In contrast, “nonquorum gatherings” of members of a public body “intended to obtain information or voice opinions” do not seem to involve violations of the Act. *Id.*

ii. The language applying the open meetings statutes to certain subcommittee meetings when there is a quorum of the public body present was added to § 84-1409(1) as a result of LB 1019 passed by the Legislature during the 1992 regular session.

**b. Entities Conducting Judicial Proceedings.** Entities conducting judicial proceedings are not public bodies under the Open Meetings Act unless the court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders. LB 325, the original open meetings statute of 1975, was directed strictly at policy making bodies which were legislative or quasi-legislative. Floor Debate on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session, May 14, 1975, at 4618.

i. In *McQuinn v. Douglas County School District No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000), the Nebraska Supreme Court held that a hearing before a school board on the question of the nonrenewal of a probationary certificated teacher's contract where the matters before the board pertained solely to disputed adjudicative facts involved a judicial function, and on that basis, the hearing was not subject to the open meetings statutes. In that context, a school board exercises a judicial function if it decides a dispute of adjudicative fact or if a statute requires it to act in a judicial manner. Adjudicative facts are those ascertained from proof adduced at an evidentiary hearing which relate to a specific party. The *McQuinn* case is discussed further in *Bligh v. Douglas County School District No. 0017*, 2008 WL 2231063, 2008 Neb. App. LEXIS 106 (Neb. Ct. App. 2008) (Not approved for publication).

ii. The Attorney General has determined that hearings before various agencies are judicial and not subject to the open meetings law: 1975-76 Rep. Att'y Gen. 127 (Opinion No. 105, dated July 14, 1975) (hearing before a County Board of Mental Health); Op. Att'y Gen. No. 184 (January 31, 1984) (hearing before the Nebraska Equal Opportunity Commission); Op. Att'y Gen. No. 210 (May 16, 1984) (hearing before a hearing officer appointed by the State Personnel Board); Op. Att'y Gen. No. 02016 (May 21, 2002) (contested case hearing before the Power Review Board on application of electricity suppliers for construction or acquisition of generation facilities); Op. Att'y Gen. No. 05014 (October 19,

2005) (appeal hearing regarding the Nebraska Veterans' Aid Fund before the Nebraska Veterans' Advisory Commission). But, the Attorney General has concluded that a hearing before the Certificate of Need Review Committee is covered by the open meetings statutes. Op. Att'y Gen. No. 87019 (February 13, 1987).

iii. Parole hearings conducted by the Board of Parole are judicial in nature and not subject to the open meetings statutes. However, other statutes specifically pertaining to operation of the Board of Parole require that such parole hearings be conducted with elements of notice and in a manner open to the public. Op. Att'y Gen. No. 93065 (July 27, 1993).

iv. When the State Board of Education holds hearings in contested cases under the state Administrative Procedure Act, such hearings are not subject to the Open Meetings Act. The Board is not required to give notice of such hearings to the public under those statutes, and it may conduct its deliberations and decision-making process for such hearings by a telephone conference call. Op. Att'y Gen. No. 99046 (November 15, 1999).

## MEETING DEFINED

C. Under § 84-1409(2), meetings, for purposes of the open meetings statutes, are defined as "all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body." Section 84-1410(5) also provides that the open meetings statutes shall not apply to "chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power."

1. The legislative history of LB 325, from 1975, indicates that meetings of a public body do not include social meetings or meetings which were not called by the body. Government Committee Hearing on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session (1975) at 3.

2. However, § 84-1409 was amended by LB 43 in 1983 to include "formal or informal" meetings. The legislative history of that bill indicates that a meeting between a state senator and the members of a local school board to discuss legislation would constitute an "informal called meeting." Government, Military and Veterans' Affairs Committee Hearing on LB 43, 88<sup>th</sup> Nebraska Legislature, First Session (1983) at 5-8.

3. The provision of § 84-1410(5) pertaining to "chance" meetings, etc., was added by LB 43 in 1983.

4. The legislative history of LB 43 from 1983 indicates that a "meeting" does not occur absent a quorum. Government Military and Veterans' Affairs Committee Hearing on LB 43, 88<sup>th</sup> Nebraska Legislature, First Session (1983) at 19. In addition, the Attorney General has concluded that the presence of a majority of the members of a public body is necessary for a meeting to occur. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975). In *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), the Nebraska Court of Appeals indicated that "private quorum conferences" are an evasion of the law. The Nebraska Supreme Court also indicated that subgroups of the Omaha City Council constituting less than a quorum of that body were not public bodies on that ground. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).

5. Even when a quorum of public body is present in one location, there is no meeting under the Open Meetings Act if there is no interaction or discussion among members of the body regarding policymaking for the public body. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W. 2d 909 (2010). The secret formation of public policy forbidden by the Open Meetings Act is the formation of public policy as a group. *Id.* As a result, there is no meeting of a public body based upon the unspoken thoughts of its members who happen to be sitting in the same room. *Id.* The Open Meetings Act is not so broad and sweeping as to require public access to any gathering of any sort that is attended by a quorum of a public body. *Id.*

6. In *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), the Court of Appeals held that informational sessions where the Council heard reports from staff of the Department of Environmental Control were briefings which were subject to the requirements of the open meetings statutes. The Court stated that

listening and exposing itself to facts, arguments and statements constitutes a crucial part of a governmental body's decision making. As a result, receiving information triggers the requirements of the statutes, and the open meetings law applies to meetings at which briefing or the formation of tentative policy takes place, as well as to meetings where action is contemplated or taken.

7. *Rauert v. School District I-R of Hall County*, 251 Neb. 135, 555 N.W.2d 763 (1996), involved allegations by the plaintiff that a quorum of the defendant school board met in the office of the superintendent of schools on a regular basis for "clandestine" meetings before the beginning of most scheduled board meetings where business was discussed and decided and checks were signed to pay claims which had not been approved in public session. The board then allegedly moved and voted on business at its public meeting with little or no discussion in order to deprive the public of the right to be fully informed. The Supreme Court held that the District Court properly failed to find a violation of the Open Meetings Act with respect to those allegations in the absence of any evidence as to the specific dates and details of the alleged "clandestine" meetings.

8. In *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010), the Nebraska Supreme Court considered the propriety of a situation where two separate groups of a city council, neither of which constituted a quorum of that body, toured an ethanol facility for informational purposes. The court ultimately concluded that there was no meeting of the city council as a result of the tours—there was no quorum of the council present, the small groups were merely acquiring information, and there was no evidence that the council was, through the tour, attempting to reach a consensus and form public policy in secret.

9. In *Schauer*, the court also noted that the Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. Moreover the public would be ill served by restricting policymakers from reflecting on and preparing to consider proposals, or from privately suggesting alternatives. As a result, the court indicated that the Legislature, by excluding nonquorum subgroups from the definition of a public body, balanced the public's need to be heard on matters of public policy with a practical accommodation for a public body's need for information to conduct business. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010) (citing *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007)).

10. The Attorney General has indicated that an "emergency meeting" may be conducted by electronic and telecommunications equipment including radio and telephone conferences. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975). On the other hand, the open meetings statutes do not generally authorize the use of telephone conference calls for non-emergency meetings of a public body, and absent members of a public body may not be counted to achieve a quorum through the use of a conference call. Op. Att'y Gen. No. 92019 (February 11, 1992). [Section 84-1411 has been amended a number of times to allow specified public bodies including the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act, the board of an educational service unit, the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, a community college board of governors, the governing body of public power district, the governing body of a public power and irrigation district, or the Educational Service Unit Coordinating Council to meet by telephone conference call in certain circumstances. See 1999 Neb. Laws LB 461; 2000 Neb. Laws LB 968; 2007 Neb. Laws LB 199; 2009 Neb. Laws LB 36, 2012 Neb. Laws LB 735, 2013 Neb. Laws LB 510 and Section D.2. below.]

11. An "informational and educational" meeting of a public body governing a political subdivision where members generally discuss matters pertaining to their subdivision, hear reports from various department heads of the subdivision as to their duties and learn the workings of the subdivision is a meeting of the public body for "briefing" purposes which is subject to the open meetings statutes. Op. Att'y Gen. No. 92043 (March 17, 1992). In addition, the Attorney General has also indicated informally that a meeting of a public body "for the purpose of receiving training or doing planning (such as a retreat)" should probably be treated as subject to the Open Meetings Act.

12. In Op. Att'y Gen. No. 94035 (May 11, 1994), the Attorney General indicated that discussions and deliberations by the State Board of Education in connection with the selection of a Commissioner of Education were subject to the requirements of the open meetings statutes. In addition, that opinion indicated that interviews with individual candidates for the Commissioner position were also subject to the requirements of the open meetings statutes, if a quorum of the Board was present for those interviews. However, in the latter interview situation, a brief closed session

(as discussed below) might be warranted for a candid discussion by the Board and the candidate which might potentially elicit responses injurious to the reputation of an individual.

13. A workshop held by the Board of Regents of the University of Nebraska with a professional facilitator to discuss communication practices and the roles of the Board and the University President was not subject to the Open Meetings Act on the basis of § 84-1410(5) which exempts chance meetings or attendance at or travel to conventions or workshops. The University also asserted that there would be no briefing, discussion of public business, formation of tentative policy, vote, or taking of other action at the workshop. Op. Att'y Gen. No. 04027 (October 20, 2004).

## PUBLIC MEETINGS BY VIDEOCONFERENCING AND TELEPHONE CONFERENCE CALL

D. Section 84-1411 allows certain public bodies to meet by videoconferencing and by telephone conference call.

1. **Videoconferencing.** Section 84-1411 was first amended by LB 635 in 1993 to allow meetings of certain public bodies by means of videoconferencing. Under the current amended § 84-1411(2), public bodies which are allowed to meet by videoconferencing include: (1) various bodies of state government including state agencies, boards, commissions, councils and committees, together with their advisory committees; (2) organizations created under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act; (3) the governing body of a public power district with a chartered territory of more than one county in this state; (4) the governing body of a public power and irrigation district with a chartered territory of more than one county in this state; (5) boards of educational service units; (6) the Educational Service Unit Coordinating Council; (7) the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act; and (8) a community college board of governors.

a. The public bodies listed above may hold meetings by videoconferencing if the following requirements are met: (1) reasonable advance publicized notice is given, (2) reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recording by audio and visual recording devices, and an reasonable opportunity for input

such as public comment or questions to at least the same extent as would be provided absent videoconferencing, (3) at least one copy of all documents being considered is available to the public at each site of the videoconference, (4) at least one member of the public body is present at each site of the videoconference, and (5) no more than one-half of the public body's meetings in a calendar year are held by videoconferencing.

b. Under an amended § 84-1409(3), videoconferencing is defined as "conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations."

c. Under § 84-1411(6), a public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

d. 1999 Neb. Laws LB 87, § 100 added organizations created under the Joint Public Agency Act to the list of entities permitted to conduct meetings by videoconferencing. 2009 Neb. Laws LB 361 added the boards of educational service units to the list. 2012 LB 735 added power and irrigation districts and community college boards of governors to the list. 2013 Neb. Laws LB 510 added the Educational Service Unit Coordinating Council to the list.

e. 2019 Neb. Laws LB 212, § 5 amended § 84-1411(2)(d) and (e) to allow members of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool to designate a nonvoting designee to be present at any videoconference site. The designee shall not be counted for purposes of a quorum. An organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act are required to hold at least one meeting each calendar year not by videoconferencing or telephone conference call.

**2. Telephone Conference Call.** Section 84-1411 was also amended by a number of legislative bills over time (1999 Neb. Laws LB 461; 2000 Neb. Laws LB 968; 2007 Neb. Laws LB 199; 2009 Neb. Laws LB 361; 2012 Neb. Laws LB 735; 2013 Neb. Laws LB 510; 2017 Neb. Laws LB 318) to allow (a) the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act, (b) the board of an educational service unit, (c) the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, (d) a community college board of governors, (e) the governing body of public power district, (f) the governing body of a public power and irrigation district, (g) the Educational Service Unit Coordinating Council, and (h) the Nebraska Brand Committee to meet by telephone conference call. Those various bodies may only meet by telephone conference call if:

(1) the territory represented by the body covers more than one county;

(2) reasonable advance publicized notice is given which identifies each telephone conference location at which a board member or member of the body's governing body will be present;

(3) all telephone conference meeting sites identified in the notice are located within public buildings used by members of the body or at a place which will accommodate the anticipated audience;

(4) reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(5) at least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(6) at least one member of the governing organization of the body is present at each site of the telephone conference call identified in the public notice;

(7) the telephone conference call lasts no more than two hours; and,

(8) no more than one-half of the body's meetings in a calendar year are held by telephone conference call, except that a governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

Nothing in this section dealing with telephone conference calls prevents the participation in the call by consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. These telephone conference calls may not be used to circumvent any of the public government purposes established in the Open Meetings Act.

a. 2019 Neb. Laws LB 212, § 5 expands the notice required in § 84-1411(3)(b) to include a nonvoting designee of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool. LB 212 also amended § 84-1411(3)(f) and (h) to allow members of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool to designate a nonvoting designee to be present at any site of a telephone conference call. The designee shall not be counted for purposes of a quorum. An organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act

may hold more than one-half of its meeting by telephone conference call as long as the entity holds at least one meeting each calendar year not by videoconferencing or telephone conference call.

b. 1999 Neb. Laws LB 47, § 2 also amended § 84-1411(2) to provide that certain meetings of the Judicial Resources Commission may be held by telephone conference if the criteria for videoconferencing listed above are met.

3. **Circumvention of Open Meetings Act.** Under § 84-1411, videoconferencing, telephone conferencing or conferencing by other electronic communication may not be used to circumvent any of the public government purposes established by the Open Meetings Act. Neither may emails, faxes, or other electronic communications be used for such purposes.

## PUBLIC MEETINGS; NOTICE AND AGENDA REQUIRED

E. Section 84-1411 sets out several requirements for the notice which must be given for a public meeting and for the agenda which must be prepared: (1) the public body must give reasonable advance publicized notice of the time and place of each meeting by a method designated by the body and recorded in its minutes, (2) that notice must be transmitted to all members of the body and to the public, (3) the notice must contain an agenda of subjects known at the time of the publicized notice, or a statement that such an agenda, which must be kept continually current, is readily available for inspection at the principal office of the public body during normal business hours.

1. **Agenda.** Under § 84-1411(1), an agenda maintained at the office of a public body for public inspection must be kept continually current and may not be altered later than 24 hours before the scheduled commencement of the public meeting (or 48 hours before commencement of a meeting of a city council if that meeting is noticed outside the corporate limits of the municipality). A public body may modify an agenda to include items of an emergency nature only at such public meeting.

2. **Specificity of the Agenda.** LB 898 from 2006 added language to § 84-1411(1) which states that agenda items shall be "sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting." That statutory change arose out of a sense that lack of specificity

in meeting agendas was a major issue of concern around the state. Government, Military and Veterans Affairs Committee Hearing on LB 898, 99<sup>th</sup> Nebraska Legislature, Second Session (2006) at 19. The intent of the change was to require public bodies to include sufficient detail in their agendas regarding issues to be discussed or acted upon so as to provide information and notice to the public. Floor Debate on LB 898, 99<sup>th</sup> Nebraska Legislature, Second Session, March 28, 2006 at 11701 (Statement of Senator Preister). The change was also intended to require sufficient detail in an agenda so that members of the public are not forced to look at past agendas in order to understand the issue to be discussed and/or the action to be taken. *Id.*

3. **News Media.** Section 84-1411(4) requires that the secretary or other designee of each public body shall maintain a list of news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to that list of media of the time and place of each meeting and the subjects to be discussed at that meeting.

4. **History.** The provision of § 84-1411 which prohibits altering an agenda within 24 hours of a meeting was added in 1983 to prevent addition of last minute matters to an agenda which did not really represent emergencies. Floor Debate on LB 43, 88<sup>th</sup> Nebraska Legislature, First Session, March 22, 1983, at 1896.

5. In *Rauert v. School District I-R of Hall County*, 251 Neb. 135, 555 N.W.2d 763 (1996), the court stated that the Open Meetings Act requires public bodies to give reasonable advance publicized notice of the time and place of their meetings, in part so that the public may attend and speak at those meetings.

6. The Legislature has imposed only two conditions on public bodies regarding the method of notification for their meetings: 1. the public body must give reasonable advance publicized notice of the time and place of each meeting, and 2. the method of notification must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007). There is no minimum time period for public notification of a special meeting, and an agenda for a public meeting can be created (not altered) later than 24 hours before the scheduled meeting. *Id.* In the *City of Elkhorn* case, the court held that notice of a meeting of the Omaha City Council posted and placed on the city's website at 10:15 a.m. for a meeting at 10:00 p.m. the same day was sufficient under the facts of the

case where the local newspaper printed an article about the meeting in its afternoon edition and four television broadcasters were present at the meeting. The court also indicated that any defect in notice intended for the benefit of council members would not invalidate a council meeting when all of the members of the council attended without objection.

7. The purpose of the agenda requirement is to give some notice of the matters to be considered at the meeting so that persons who are interested will know which matters are under consideration. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010); *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979); *State ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007). In *Pokorny*, the agenda at issue, considered with all the previous records of the city council involved, was sufficient to satisfy the open meetings statutes. *Pokorny* also indicates that posting notice at 10 p.m. on March 15 before a meeting at 10:30 a.m. on March 16 does not constitute reasonable notice. Posting notice one week ahead does.

8. In *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999), the Court of Appeals considered whether an agenda item which simply stated "Work Order Reports" was sufficient to give adequate public notice of a decision to approve a work order which involved expenditure of over \$47 million for the construction of a 96-mile power transmission line across privately held property to connect two power substations. The court held that the agenda item was insufficient under the Open Meetings Act. The court also seemed to suggest, based upon the *Pokorny* case, that the sufficiency of an agenda item might be measured, at least to some degree, in the context of the other meetings of the public body immediately prior to the public meeting in question.

9. A member of the public should not be required to hunt up and read the documents underlying an agenda of a public body to determine what is actually on that agenda. *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999).

10. If a public body uses or publishes its agenda to give the required notice for a particular meeting, then the notice contained in the agenda must comport with the law for giving notice of what is to be considered at the

meeting. *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999).

11. A notice of a hearing, given by a school board, which stated that a hearing would be held, and that an agenda would be available for inspection, once established, is not proper notice. An agenda must be available. *Allen v. Greeley County School District No 501*, 1994 WL 272223, 1994 Neb. App. LEXIS 186 (Neb. Ct. App. 1994) (not approved for publication).

12. When governmental subdivisions which hold annual meetings, such as townships, conduct their annual meeting, electors who participate in the annual meeting must place matters which they wish to discuss on the agenda for the annual meeting. *State ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007). Electors under those circumstances may not simply appear at the annual meeting and bring up any subject falling within the broad powers of electors if that subject is not on the agenda. *Id.*

13. Two separate public bodies may publish notice of their meetings on the same sheet of paper and need not use separate sheets when the notices contain only the time and place of their meetings, and when the notices direct interested citizens to the place where agendas for each body may be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009). In addition, two separate public bodies may combine their agendas when the combined agendas make it clear which items are to be addressed by each body. *Id.* The same rule applies to combined minutes. *Id.* The *Wolf* case involved a situation where a county board met both as a county board and as a county board of equalization.

14. Placing notice of future meetings in minutes of a prior meeting does not give sufficient notice under the Open Meetings Act. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009).

15. Notice of recessed or reconvened meetings of a public body must be given in the same fashion as notice of the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009).

16. Section 84-1411(1) requires public bodies to give notice of their meetings "by a method designated by each public body and recorded in its minutes." In *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010), the Nebraska Supreme Court seemed to indicate that this requirement may be met by a public body if it is possible, through the minutes of past meetings, to discern a customary and consistent method used by the public body to notify the public of its meetings. It does not appear that the choice of method for giving notice of meetings must be formally set forth in the minutes of the public body as such.

17. The Attorney General has concluded that "advance publicized notice" means a separate, specific advance notice must be given for each meeting. 1971-72 Rep. Att'y Gen. 314 (Opinion No. 137, dated August 8, 1972).

18. The Attorney General has also determined that: (1) an agenda may not be used as the minutes of a meeting, (2) reasonable notice under the statute means notice reasonably calculated to give appropriate notice to citizens of the time and place of a meeting and notice which complies with the formal requirements of the statute. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975).

19. In Op. Att'y Gen. No. 96071 (October 28, 1996), the Attorney General indicated that the Quality Jobs Board should give its normal 10-day published notice of meeting rather than an "informal" notice where the Board had recessed a previous meeting on a tax credit application pending a renewed meeting call from the Governor after issuance of an opinion from the Attorney General.

## EMERGENCY MEETINGS

F. Section 84-1411(5) allows public bodies to hold emergency meetings without reasonable advance public notice. There are several statutory requirements with respect to such emergency meetings: (1) the nature of the emergency shall be stated in the minutes, and any formal action taken shall pertain only to the emergency, (2) the provisions of § 84-1411(4) dealing with notice to the media shall be complied with in connection with an emergency meeting, (3) complete minutes of the emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public no later than the end of the next regular business day.

1. Under § 84-1411(5), emergency meetings may be held by electronic or telecommunications equipment.
  
2. In *Steenblock v. Elkhorn Township Board*, 245 Neb. 722, 515 N.W.2d 128 (1994), the Court indicated, in a case involving allegations of a violation of the open meetings statutes, that an emergency is defined as "any event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." In that case, the Court held that a township board meeting to consider the job status of a township employee, convened as an emergency meeting because of a snowstorm, was not a proper emergency meeting because the employee was given two week's notice of his resultant termination, and because the reasons given for the employee's termination were based upon his past performance.
  
3. In *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) the Court of Appeals considered whether a number of items taken up at meetings of a county board without any listing on the board's agenda were "emergency" items. In making that determination in each case, the court focused upon whether there was anything in the record which indicated that a particular item required immediate action or involved pressing necessity.
  
4. The Attorney General has also stated that an item of an emergency nature is one that requires immediate resolution by the public body, and one which has arisen in circumstances impossible to anticipate at a time sufficient to place on the agenda of a regular, called, or special meeting of the body. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975).
  
5. In Op. Att'y Gen. No. 95063 (August 9, 1995), the Attorney General indicated that action taken during a meeting of the Nebraska Equal Opportunity Commission by a telephone conference call which did not comply with the requirements of the open meetings statutes for emergency meetings was void.

## PUBLIC MEETINGS; MINUTES AND VOTING PROCEDURES

**G.** Section 84-1413 contains several provisions regarding the minutes which are to be maintained by public bodies and regarding voting procedures for public bodies.

1. **Minutes.** Every public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes of all meetings and evidence or documentation received or disclosed during open session shall be public records, open to public inspection during normal business hours. Minutes shall be written and available for inspection within 10 working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional 10 working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

a. 2015 Neb. Laws LB 365, § 2 amended § 84-1413 to provide that minutes of the meetings of school boards and educational service units may be kept as an electronic record.

2. **Voting procedures.** Any action taken on any question or motion duly made and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The vote to elect leadership within a public body may be by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

a. Electronic Voting Devices. The roll call or viva voce vote requirements of the Open Meetings Act may be satisfied by a public body which uses an electronic voting device which allows the vote of each member of the governing body to be readily seen. 2016 Neb. Laws LB 876, § 1. Prior to the enactment of LB 876, only certain public bodies, e.g., a municipality, a county, a learning community, a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act or an agency formed under the Municipal Cooperative Financing Act, were authorized to use electronic voting devices under the Act.

3. In *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1984), the Supreme Court held that the requirement of § 84-1413(2) that the record shall state how each member of a body voted could not be satisfied by a nunc pro tunc amendment to the body's minutes showing that the recording of the vote in the minutes was performed prior to the time the actual recording in the minutes took place. However, when the same case was before the court a second time, the court held that, as a general rule, a public body may, if no intervening rights of a third person have arisen, order the minutes of its own proceedings at a previous meeting to be corrected according to the facts to make them speak the truth. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).

4. Section 84-1413 is violated by a failure to make or take a vote in accordance with the statute rather than a failure to record a properly taken vote. *State ex rel. Schuler v. Dunbar* (1983), *supra*.

5. Section 84-1413(2) dealing with roll call votes does not require the record to state that the vote was by roll call but only requires that the record show if and how each member voted. Neither does that statute set a time limit for recording the results of a vote. *State ex rel. Schuler v. Dunbar* (1983), *supra*.

6. The statutory requirements here dealing with voting and minutes are mandatory since the Legislature provided that action taken in violation of this statute is void. *State ex rel. Schuler v. Dunbar* (1981), *supra*.

7. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) seems to indicate that the Open Meetings Act does not require that minutes of meetings be "published," but only that they be written and available for inspection within 10 working days or prior to the next convened meeting of the public body.

8. The legislative history of the original open meetings statutes, LB 325 from 1975, indicates that the requirement of a roll call vote was directed at votes on questions that would bind the particular public body. Other procedural questions were not covered. Government Committee Hearing on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session (1975) at 10.

9. The Attorney General has stated that nothing in the open meetings statutes requires approval of the minutes of a public body prior to their publication. Op. Att'y Gen. No. 162 (December 28, 1981).

10. In Op. Att'y Gen. No. 98045 (November 4, 1998), the Attorney General indicated that detailed minutes of all matters discussed need not be maintained when a public body is meeting in closed or executive session, so long as the requirements of § 84-1410 pertaining specifically to the minute entries necessary for a closed session are met.

## **PUBLIC MEETINGS; RIGHTS OF THE PUBLIC ATTENDING**

H. Section 84-1412 establishes the rights of members of the public attending a meeting of a public body.

1. Members of the public have the right to attend and the right to speak at meetings of public bodies, and all or any part of a public meeting except closed sessions under § 84-1410, may be videotaped, recorded, televised, broadcast, photographed, etc. by any person.

2. Public bodies may make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, or recording their meetings. A public body is not required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

3. Members of the public cannot be required to identify themselves as a condition for admission to a public meeting. The public body may require persons desiring to address the body to identify themselves.

4. No public body shall, to circumvent the open meetings laws, hold its meeting in a place known to be too small to accommodate the anticipated audience. However, a public body shall not be in violation of this prohibition if it meets in its traditional meeting place in this state.

5. LB 898 from 2006 added language to § 84-1412 which provides that public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to

members of the public. At the beginning of any meeting, the public shall be informed about the location of the posted information. The legislative history of LB 898 indicates that "posting" a copy of the Open Meetings Act means putting it up in some fashion, including attaching it to a bulletin board, hanging it by a chain or fastening it to a wall. Floor Debate on LB 898, 99<sup>th</sup> Nebraska Legislature, Second Session, March 28, 2006, at 11697 (Statement of Senator Preister). "Posting" does not include placing the Act on a table as a loose document which can be removed and therefore might not be available throughout the meeting. *Id.* If a meeting of a public body is moved to another location to accommodate a larger audience, then the posted copy of the act should be moved and posted in the new location. *Id.*

6. In 2008, LB 962 amended § 84-1412 to provide that public bodies may not require that "the name of any member of the public be placed on the agenda prior to . . . [a] meeting in order to speak about items on the agenda." That change was made so that members of the public are not required to place themselves on the agenda of a public body prior to a meeting in order to speak on agenda items during the times at that meeting set aside for public comment. Floor Debate on LB 962, 100<sup>th</sup> Nebraska Legislature, Second Session, February 28, 2008 at 2 (Statement of Senator Preister). That change in statutory language was not intended to affect the right of a public body to make reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, or recording its meetings. *Id.*

7. A public body may hold a meeting outside the State of Nebraska only if all the following conditions are met: (a) a member entity of the public body is located outside of the state and the meeting is in that member's jurisdiction, (b) all out-of-state locations identified in the notice of meeting are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience, (c) reasonable arrangements are made to accommodate the public's rights to attend, hear and speak at the meeting, including making a telephone conference call available at an instate location to members, the public, or the press, if requested twenty-four hours in advance, (d) no more than 25% of the public body's meetings in a calendar year are held out-of-state, (e) out-of-state meetings are not used to circumvent any of the public government purposes established by the Open Meetings Act, (f) reasonable arrangements are made to provide viewing at other instate locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area, and (g) the public body publishes notice of the out-of-state meeting at least 21 days before the

date of the meeting in a legal newspaper of statewide circulation. These requirements for out-of-state meetings were added to § 84-1412 by 2001 Neb. Laws. LB 250, § 2.

8. A public body shall, upon request, make a reasonable effort to accommodate the public's right to hear discussion and testimony at a public meeting. Public bodies shall make at least one copy of reproducible written material discussed at an open meeting available at the meeting or at the in-state location for a telephone conference call or video conference for examination and copying by members of the public.

9. **History.** Many of the initial provisions in § 84-1412 dealing with the rights of the public were added as a result of LB 43 in 1983.

10. The language requiring a reasonable effort to allow all parties to hear a public meeting does not involve an absolute requirement that all persons present shall be able to hear. Floor Debate on LB 43, 88<sup>th</sup> Nebraska Legislature, First Session, March 21, 1983, at 1794-1795.

## CLOSED SESSIONS OF A PUBLIC BODY

I. Section 84-1410, pertaining to closed sessions of public body, has generated the most controversy of all the portions of the open meetings statutes. Section 84-1410(1) provides that any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary (1) for the protection of the public interest, or (2) for the prevention of needless injury to an individual, if such individual has not requested a public meeting. Closed meetings may not be held for discussion of the appointment or election of a new member to any public body. Nothing in § 84-1410 should be construed to require that any meeting be closed to the public.

1. Under § 84-1410(1), examples of reasons for a closed session include:

a. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body.

- b. Discussion regarding deployment of security personnel or devices.
- c. Investigative proceedings regarding allegations of criminal misconduct.
- d. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.
- e. For a Community Trust created under Neb. Rev. Stat. § 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster. [Amended into § 84-1410(1) by 2011 Neb. Laws LB 390.]
- f. For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length. [Amended into § 84-1410(1) by 2012 Neb. Laws LB 995.]

These examples are not exclusive; they are merely examples, and other reasons may exist. Government Committee Hearing on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session (1975) at page 3; 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975); Op. Att'y Gen. No. 65 (April 17, 1985).

2. LB 898 from 2006 amended some of the provisions of § 84-1410 pertaining to the mechanics of holding a closed session. The subject matter of the closed session and reason necessitating the closed session shall be identified in the motion to hold a closed session. The vote to hold a closed session must be taken in open session, and the entire closed session motion, the vote of each member on the question of holding a closed session, and the time when the closed session commences and ends must be recorded in the minutes. If the motion to close passes, then the presiding officer shall restate on the record immediately prior to the closed session the limitation of the subject matter of the closed session. The public body holding a closed session shall restrict its consideration of

matters during the closed session to only those purposes set forth in the motion to close as the reason for the closed session. The meeting must be reconvened in open session before any formal action may be taken, and "formal action" in that context is defined in § 84-1410(2) to mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy. Under an amendment to § 84-1410(2) effected by LB 621 in 1994, formal action by the body in that context does **not** include, "negotiating guidance given by members of the public body to legal counsel or other negotiators in a closed [strategy] session authorized [for collective bargaining, real estate purchases, etc.] under subdivision 1(a) of [Section 84-1410]."

3. Any member of the public body can challenge the continuation of a closed session if he or she determines that the session has exceeded the original reason for the closed session, or if he or she contends that the closed session is neither clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual. Such a challenge can only be overruled by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

4. **History.** One of the purposes for the initial open meetings statute, LB 325 from 1975, was to tighten restrictions on closed or executive sessions of public bodies. Introducer's Statement of Purpose for LB 325, 84<sup>th</sup> Nebraska Legislature, First Session (1975). The fourth example of reasons for closed meetings was added by LB 43 in 1983. The provisions dealing with pending or imminent litigation and defining formal action in a closed session were added as a part of LB 1019 in 1992.

5. It is not entirely clear what vote of the public body is necessary to go into closed session. The statute states that "an affirmative vote of a majority of [the body's] voting members" is necessary for a closed session. On its face, the normal meaning of this language would presumably be a majority of those members present and voting. This is particularly true since the later subsection (3) of § 84-1410 requires a "majority vote of the members of the public body" to overrule a challenge to the continuation of the closed session. However, the legislative history of LB 325 makes it quite clear that the legislators intended to make the requirement for a closed session a vote of the majority of the body rather than a vote of the majority of those present and voting. Floor Debate on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session, May 14 and May 20, 1975, at 4616, 5015. Moreover, there is

some indication that "voting" members in § 84-1410(1) refers to particular members of bodies such as the Board of Regents which has both voting and non-voting members. Government Committee Hearing on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session (1975) at 27-28. The safer approach is to authorize a closed session of the public body by a majority vote of the members of the body rather than by a majority vote of just those members present.

6. The landmark case for what is permissible in a closed session is *Grein v. Board of Education of the School District of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984). *Grein* involved a closed session by a school board for discussion of the low bid on a construction project. The supreme court held that the closed session was improper. That case indicates:

a. Provisions of the statute permitting closed sessions must be narrowly and strictly construed. *See also State ex rel. Upper Republican Natural Resources District v. District Judges of the District Court for Chase County*, 273 Neb. 148, 728 N.W.2d 275 (2007).

b. The public interest which is protected in § 84-1410(1) is "that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities." 216 Neb. at 165, 343 N.W.2d at 723. *See also Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002).

c. Good faith motivation for a closed session is not a cure for non-compliance with the public meetings laws.

d. The prohibition against decisions or formal actions in a closed session proscribes crystallization of a secret decision and then ceremonial acceptance in open session.

e. There is a guiding principle with respect to closed sessions: "If a public body is uncertain about the type of session to be conducted, open or closed, bear in mind the policy of openness promoted by the Public Meetings Laws and opt for a meeting in the presence of the public." 216 Neb. at 168, 343 N.W.2d at 724.

7. *Pokorny v. City of Schuyler, supra*, indicates that there is nothing in the open meetings statutes which requires that negotiations for the purchase of land be conducted in open meeting, but deliberations of a public body as to whether an offer to purchase should be made must be done in an open meeting.

8. In a case involving the revocation of a land surveyor's license, the supreme court held that a closed session was improper since there was no showing of either necessity or of the reasons set out in § 84-1410(1). *Simonds v. Board of Examiners of Land Surveyors*, 213 Neb. 259, 329 N.W.2d 92 (1983).

9. Neb. Rev. Stat. § 79-832 (1996), dealing with hearings involving cancellation, amendment or termination of a teacher's contract mandates a closed hearing upon an affirmative vote of a majority of the school board's members present and voting and upon specific request of the certificated employee or the certificated employee's representative. However, under that section, formal action by the school board requires that the school board reconvene in open session. *Stephens v. Board of Education of School District No. 5, Pierce County*, 230 Neb. 38, 429 N.W.2d 722 (1988).

10. The provisions of the open meetings statutes dealing with closed sessions, in part, reflect the Legislature's judgment of the appropriate balance between the public's interest in open discussion of governmental issues and the rights of individuals, such as state employees, to have their performance as employees considered in private if they so choose. *Meyer v. Board of Regents of the University of Nebraska*, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993).

11. If the primary purpose for a closed session of a public body is authorized under the open meetings statutes, then any necessary discussion of incidental matters is also authorized. *Meyer v. Board of Regents of the University of Nebraska*, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993). In the *Meyer* case, the Nebraska Court of Appeals indicated that the University Board of Regents could properly discuss the appointment of an interim president for the University during a closed session called to evaluate and consider the employment status of the president.

12. In *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002), the court held that if a person who is present at a meeting of a public body observes an alleged violation of the Open Meetings Act in the form of an improper closed session and fails to object, then that person waives his or her right to object to the closed session at a later date. However, that case appears to be legislatively overruled by LB 898 from 2006; which provides that it shall not be a defense to a citizen lawsuit under § 84-1414(3) that the citizen attended the meeting and failed to object at that time.

13. There is no absolute evidentiary privilege which applies to all communications made during a closed session of a public body, and communications made during such closed sessions are discoverable. *State ex rel. Upper Republican Natural Resources District v. District Judges of the District Court for Chase County*, 273 Neb. 148, 728 N.W.2d 275 (2007). However, to the extent that communications made during a closed session implicate other recognized privileges such as the attorney/client privilege, those communications are protected. *Id.*

14. The statutory provision allowing public bodies to hold closed sessions for strategy sessions regarding litigation or threatened litigation by necessity encompasses discussions and decisions regarding whether to make or reject a settlement offer. Such decisions regarding litigation strategy should not have to be discussed publicly, during an open session, in front of the body's opponent. *Becker v. Allen*, 1996 WL 106217, 1996 Neb. App. LEXIS 73 (Neb. Ct. App. 1996) (not approved for publication). In addition, the strategic meetings which a public body has with its attorney when threatened with or engaged in litigation, in which the public body may give direction to its attorney, are protected by the attorney-client privilege. *Id.*

#### 15. Opinions of the Attorney General:

- a. A closed session is not proper simply because matters permitting a closed session might arise. Such a closed session is permitted only when such matters do arise and must be dealt with. Op. Att'y Gen. No. 94035 (May 11, 1994); Op. Att'y Gen. No. 11 (January 20, 1983).

b. Discussions of legal matters between a county board and a county attorney involving pending litigation or legal consequences of specific action are suitable for a closed session. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975).

c. A public body can go into a proper closed session for discussion of personnel matters and then reconvene for a public vote with no lengthy explanation of the rationale underlying the decision. Op. Att'y Gen. No. 89063 (October 12, 1989).

d. The closed session exception for prevention of needless injury to reputation is for the protection of individual employees and not for the protection of governmental officers on the public body. *Id.*

e. In Op. Att'y Gen. No. 98045 (November 4, 1998), the Attorney General indicated that detailed minutes of all matters discussed need not be maintained when a public body is meeting in closed or executive session, so long as the requirements of § 84-1410 pertaining specifically to the minute entries necessary for a closed session are met.

f. A county clerk, county attorney and county treasurer acting as a group under § 32-567(3) to make an appointment to fill a vacancy on a county board may not go into closed session for evaluation of the merits of the candidates based upon the express language of § 84-1410(1). Op. Att'y Gen. No. 97050 (September 18, 1997).

g. In Op. Att'y Gen. No. 17-004 (June 5, 2017), the Attorney General indicated that the Public Service Commission may not discuss management and operational issues outside of a duly convened meeting which satisfies all requirements of the Open Meetings Act, except when conducting judicial proceedings. Alternatively, the commission could discuss these issues in closed sessions under limited circumstances or form subcommittees of less than a quorum, which are generally excluded from the act.

h. The Attorney General has indicated informally that developing testimony for an upcoming Legislative hearing is not a proper reason for a state agency to go into closed session. On the other hand, the Attorney General has also indicated informally that discussion of "sensitive medical and financial information" pertaining to specific individuals who applied for admission to a state home could be conducted in a closed session so long as the actual vote on admission was done in an open meeting.

## CIRCUMVENTION OF THE OPEN MEETINGS ACT

J. Section 84-1410(4) prohibits a person or a public body from circumventing the purpose of the open meetings statutes by failing to invite a portion of its members to a meeting or by designating itself as a subcommittee of the whole body. That section also prohibits the use of any closed session, informal meeting, chance meeting, social gathering, email, fax or other electronic communication for the purpose of circumventing the requirements of the open meetings statutes.

1. This provision was added to the open meetings statutes by LB 43 in 1983. This section was directed at the intentional circumvention of the open meetings statutes rather than inadvertent acts. Government, Military and Veterans' Affairs Committee Hearing on LB 43, 88<sup>th</sup> Nebraska Legislature, First Session (1983) at 5.

2. 2004 Neb. Laws LB 1179 added emails, faxes and other electronic communications to the list of mediums which could not be used to circumvent the requirements of the Open Meetings Act.

3. Similar language prohibiting the use of telephone conference calls, emails, faxes, or other electronic communications to circumvent any of the public government purposes of the Open Meetings Act is contained in § 84-1411(3).

4. The Attorney General has indicated that intent is a necessary element of the conduct prohibited by § 84-1410(4), and that members of a public body can communicate with other members of that body by electronic means, even if that communication is directed to a quorum of the body, so long as

there is no course of communication which becomes sufficiently involved so as to evidence an intent or purpose to circumvent the Open Meetings Act. Op. Att'y Gen. No. 04007 (March 8, 2004).

## ACTIONS FOR ENFORCEMENT

K. Section 84-1414 sets out various enforcement options available to individuals who believe that the open meetings statutes have been violated.

1. Any motion, resolution, rule, ordinance, or formal action of a public body made or taken in violation of the public meetings statutes shall be declared void by the district court if the suit is commenced within 120 days of the meeting of the public body at which the alleged violation occurred. Any such motion or other action taken in substantial violation of the public meeting statutes shall be voidable by the district court if the suit is commenced after more than 120 days but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

2. Under § 84-1414(3), any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the open meetings statutes, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the open meetings statutes to discussions or decisions of the public body. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007). The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under § 84-1414(3). Under LB 898 from 2006, it shall not be a defense to such a suit that the citizen attended the meeting and failed to object to violations at such time.

3. The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the provisions of the open meetings statutes.

4. **History.** The original version of § 84-1414(1), which was a part of LB 325 passed in 1975, simply provided that actions taken in violation of the public meetings statutes should be void. The void/voidable distinction was added by LB 43 in 1983. The apparent intent of that later language was to allow a

court to void an action by a public body taken when there was any violation of the open meetings statutes if the action was filed within four months of the meeting in question. After four months, the violation of the open meetings statutes would have to be substantial to allow a court to void the action of the public body. In any event, no action could be brought after one year of the public meeting in question. Floor Debate on LB 43, 88<sup>th</sup> Nebraska Legislature, First Session, March 22, 1983, at 1892.

5. The legislative history of LB 325 from 1975 indicates that the initial intent of that statute was to have the county attorney responsible for enforcement proceedings involving public bodies at a local level. The Attorney General would be responsible for enforcement against state entities. Floor Debate on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session, May 14, 1975, at 4620.

6. The Nebraska Supreme Court has indicated that action by a public body which is proper under the open meetings statutes may cure defects in actions previously taken by the same public body. In such an instance, an action by a public body which previously might have been declared void will be declared proper. *Pokorny v. City of Schuyler, supra*. On the other hand, under those circumstances, the original improper meeting itself is still void. *Steenblock v. Elkhorn Township Board*, 245 Neb. 722, 515 N.W.2d 128 (1994). *Pokorny* also indicates that the effect of an invalid public meeting under the open meetings laws is the same as if the meeting had never occurred.

7. A county lacks capacity to maintain an action to declare its official conduct void for noncompliance with the open meetings statutes. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).

8. Reading of a city ordinance in accordance with a city charter constitutes "formal action" of a city council which may be voided in a lawsuit under § 84-1414(1). *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).

9. A number of Nebraska cases deal with waiver of rights under the Open Meetings Act by a failure to make a timely objection to violations of the Act. *Stoetzel & Sons, Inc. v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003) (if a person who attends a meeting of a public body believes that copies of documents discussed by the body should be made available to

the public at the meeting, a timely objection should be made, or that person waives his or her right to object); *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002); *Otey v. State*, 240 Neb. 813, 485 N.W.2d 153 (1992); *Witt v. School District No. 70*, Frontier County, 202 Neb. 63, 273 N.W. 2d 669 (1979) (any person who has notice of a meeting and attends the meeting is required to object specifically to a lack of public notice at the meeting or waive his rights to object on that ground under the open meetings statutes); *Hauser v. Nebraska Police Standards Advisory Council*, 264 Neb. 944, 653 N.W.2d 240 (2002) (if a person present at a meeting observes and fails to object to an alleged open meetings violation in the form of a failure to conduct roll call votes before taking action on questions or motions pending, that person waives his or her right to object at a later date); *Alexander v. School District No. 17 of Thurston County*, 197 Neb. 251, 248 N.W.2d 335 (1976) (where teachers had notice of a termination hearing, appeared, and no objection was made to a failure of the school board to give proper notice under the open meetings statutes, those teachers waived any objection they might have had to violations of the open meetings law). Those cases appear to be legislatively overruled by LB 898 from 2006 which provides that it shall not be a defense to a citizen lawsuit under § 84-1414(3) that the citizen attended the meeting and failed to object at that time.

10. Actions for relief under the open meetings statutes are tried as equitable cases, given the fact that the relief sought is in the nature of a declaration that particular action taken in violation of the laws is void or voidable. Such cases are also considered as equitable cases on appeal. *Stoetzel & Sons, Inc. v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003); *Hauser v. Nebraska Police Standards Advisory Council*, 264 Neb. 944, 653 N.W.2d 240 (2002); *Wolf v. Grubbs*, 17 Neb. App. 292, 759 NW. 2d 499 (Neb. Ct. App. 2009); *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999).

11. The *Hansmeyer* case also discusses the distinction between "void" and "voidable" under § 84-1414. "Void" means ineffectual and having no legal force or binding effect, while "voidable" means that which may be avoided or declared void, not absolutely void. In *Hansmeyer*, the court considered factors such as whether any purpose would be served or whether decisions were made in secret without public discussion in determining whether a voidable vote by the Nebraska Public Power District should, in fact, be voided.

12. Once a meeting has been declared void pursuant to the Open Meetings Act, the members of the public body involved are prohibited from considering any information which they obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009); *Alderman v. County of Antelope*, 11 Neb. App. 412, 653 N.W.2d 1 (2002).

13. The decision to award attorneys fees to a "successful plaintiff" in an action under § 84-1414 is discretionary with the trial court. *Hansmeyer v. Nebraska Public Power District*, 6 Neb. App. 889, 578 N.W.2d 476 (1998), *aff'd*, 256 Neb. 1, 588 N.W.2d 589 (1999). The court in *Hansmeyer* also held that the plaintiffs in that case were "successful plaintiffs" who could recover attorney's fees under § 84-1414 because there was a finding that a substantial violation of the open meetings statutes had occurred, and because the public body involved amended its practices to prepare proper agendas after the plaintiffs filed their action. The court reached that conclusion even though it ultimately determined that the improper action of the public body at issue should not be voided. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) also contains a discussion regarding the basis for an award of attorneys fees in that case, including the court's analysis of why it reduced a fee award on appeal.

14. Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009). The court in the *Wolf* case also specifically considered whether violations of the Open Meetings Act were "substantial" violations in determining whether it was appropriate to void actions of a county board when the enforcement lawsuit was filed more than 120 days after the meetings in question.

15. In *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) there was no evidence in the record which established that a county board had published notice of its meetings anywhere. The Court of Appeals held that in the absence of contrary evidence, it may be presumed that public officers faithfully performed their official duties. *Id.* In addition, absent evidence showing misconduct or disregard for the law, the regularity of official acts is also presumed. *Id.* In *Wolf*, the court also indicated that the plaintiffs had the burden at all times to show that it was more probable that notices of meetings were not posted than probable that they were.

16. The United States District Court for the District of Nebraska has indicated that it has supplemental jurisdiction over claims under § 84-1414 based upon 28 U.S.C. § 1367(a). *Buzek v. Pawnee County Nebraska*, 207 F. Supp. 2d 961 (D. Neb. 2002).

17. "Citizens," as well as members of the general public and reporters or other representatives of the news media, are the intended beneficiaries of the Open Meetings Act, and have standing to bring an action under that Act. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W. 2d 909 (2010). This is true even though individual citizens may not be able to allege a particularized injury as a result of action by a public body or the pecuniary interest in the public body's action which might be necessary for common law standing. *Id.* An action under § 84-1414 is permissible when the ultimate result of the questionable meetings of the public body is annexation. *Id.*

18. The plaintiffs in *Pierce v. Drobny*, 279 Neb. 251, 777 N.W.2d 322 (2010), contended that a local school board held a number of secret meetings without notice or public participation to plan for a special election for the issuance of bonds for a new school. A resolution authorizing the special election was subsequently passed by the board at a public meeting, and at the special election, voters approved the school bond issue. The plaintiffs sought to void the board's resolution for the special election under the Open Meetings Act rather than filing an election contest. The Nebraska Supreme Court held that an election contest was the exclusive remedy under such circumstances, and that a separate challenge under the Open Meetings Act did not exist once the bond issue was voted upon by the public.

## CRIMINAL SANCTIONS

L. Section 84-1414(4) provides that any member of a public body who knowingly violates or conspires to violate the Open Meetings Act, or who attends or remains at a meeting knowing that the public body is in violation of any provision of that Act, shall be guilty of a Class IV misdemeanor for a first offense, and a Class III misdemeanor for a second or subsequent offense.

1. The legislative history of LB 325 from 1975 indicates that the criminal sanctions included in this section were originally directed at intentional behavior rather than at inadvertence. Government Committee Hearing on LB 325, 84<sup>th</sup> Nebraska Legislature, First Session (1975) at 16.

2. The criminal sanctions for violation of the open meetings statutes were first increased as a result of LB 1019 passed in 1992. Also, that same bill in 1992 added language which made knowingly remaining at or attending a meeting in violation of the open meetings statutes a crime. The present language which applies criminal sanctions to those members of a public body who remain at a meeting knowing that the public body is in violation of the open meetings statutes was added by LB 621 in 1994.

3. Under Neb. Rev. Stat. § 28-106 (2016), a Class IV misdemeanor is punishable by a fine up to \$500 and no imprisonment. In addition, a Class III misdemeanor is punishable by up to 3 months imprisonment or up to a \$500 fine, or both. A Class III misdemeanor has no minimum penalty.

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## Chapter 1 - GENERAL PROVISIONS

*Footnotes:*

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**Editor's note**— Ordinance No. 5272, effective June 11, 2013, amended and reorganized Chapter 1 in its entirety to read as set out herein.

## Sec. 1-101. - How Code designated and cited.

All ordinances embraced in the following chapters and sections shall constitute and be designated and cited as the "Fremont Municipal Code."

## Sec. 1-102. - Definitions and rules of construction.

In the construction of this Code and all other ordinances of the City, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or the context clearly requires otherwise:

*City.* The words "city," "the city," or "this city" shall be construed as if followed by the words "of Fremont, Nebraska."

*Code.* The words "the Code" or "this Code" shall mean "The Fremont Municipal Code."

*Computation of Time.* The time within which an act is to be done is computed by excluding the first day and including the last, unless the last day falls upon any legal holiday or on Saturday, in which case the period runs until the end of the next day.

*Council.* Whenever the word "Council" is used, it shall be construed to mean the Council of the City of Fremont, Nebraska.

*County.* The words "the county" or "this county" shall mean Dodge County, Nebraska.

*Day.* A day is a 24-hour period of time between any midnight and the following midnight.

*Daytime, Nighttime.* "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

*Gender.* The masculine gender includes the feminine.

*In the City.* The words "in the city" shall mean and include all territory over which the city now has or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

*Joint Authority.* All words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

*Month.* The word "month" shall mean a calendar month.

*Number.* The singular number includes the plural and the plural includes the singular.

*Oath.* "Oath" includes affirmation.

*Offense.* The doing of any act or thing prohibited or the failing to do any act or thing commanded to be done in this Code within the city is hereby declared to be an offense against the public peace, safety, morals, and general welfare of the people of the City.

*Or, And.* "Or" may be read "and," and "and" may be read "or," if the sense requires it.

*Owner.* The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or of a part of such building or land, or vendee in possession under a land sale contract.

*Person.* "Person" includes but is not limited to individuals, corporations, associations, firms, partnerships and limited liability companies.

*Preceding, following.* The words "preceding" and "following" mean next before and next after, respectively.

*Property.* The word "property" shall include real and personal property.

*Public place.* The words "public place" shall mean any public place or building or any private place, business or building, open to and frequented by the public.

*Real property.* Real property shall mean any estate or interest in land, including all buildings, fixtures and improvements thereon and all rights-of-way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, used or enjoyed with said land, or any part thereof.

*Shall, may.* "Shall" is mandatory and "may" is permissive.

*Signature or subscription by mark.* "Signature" or "subscription by mark" includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when one witness shall sign his own name thereto.

*State.* The word "the state" or "this state" shall be construed to mean the State of Nebraska.

*Tenant or occupant.* The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or an oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

*To.* "To" means "to and including" when used in reference to a series of sections of this Code or when reference is made to the Nebraska Revised Statutes.

*Week.* A week consists of seven consecutive days.

*Writing.* Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing, in the English language, unless it is expressly provided otherwise.

*Year.* The word "year" shall mean a calendar year, except where otherwise provided.

#### Sec. 1-103. - Continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

#### Sec. 1-104. - Effect of repeal of ordinances.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

#### Sec. 1-105. - Severability of parts of Code.

It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-106. - Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

Sec. 1-107. - Penalties; continuing violations.

In any case where there shall be a violation of any city ordinance for which no penalty is provided, the person violating the same shall be subject to a fine of not less than one dollar nor more than five hundred dollars for each offense. Each day a violation of a continuing nature shall remain in existence shall constitute a separate offense.

Sec. 1-108. - Citation; failing to appear; penalty.

- (a) Any person who fails to appear or otherwise comply with the command of a citation shall be guilty of an infraction.
- (b) Any person convicted of violating this section shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Sec. 1-109. - Aiding, abetting or procuring; penalty.

Whoever aids, abets or procures another to violate a provision of this Code, or whoever is an accessory after the fact to the commission of any such violation shall be deemed guilty of an offense and punished in accordance with §1-107 of this Code.

An accessory after the fact is a person who, after full knowledge that a violation of this Code has been committed, conceals it from a police officer, or harbors and protects the person charged with or found guilty of a violation of any provision of this Code or state law.

Sec. 1-110. - Amendments or additions to Code.

All ordinances of a general and permanent nature, and amendments to such ordinances, enacted or presented to the City Council for enactment after the adoption of this Code, shall be drafted, so far as possible, as specific amendments, or additions to the Fremont Municipal Code. Amendments to this Code shall be made by reference to the chapter and section of the Code which is to be amended, and additions shall bear an appropriate designation of chapter and section.

ARTICLE 1. - MEETINGS AND COMMITTEES

Sec. 2-101. - Form of government.

The City of Fremont, Nebraska is a City of the First Class with a municipal government organized pursuant to the provisions of Chapter 16 of the Revised Statutes of Nebraska.

Sec. 2-102. - Regular meetings.

The regular meetings of the City Council shall be held in the City Council Chambers on the second (2nd) and last Tuesday of each month. The regular meetings may be preceded by an open public comment period (on the last Tuesday of the month) and/or a study session, with the regular Council meeting beginning at 7:00 p.m. or as soon thereafter as called to order by the Mayor. Any such open public comment periods or study sessions shall be included on the agenda for the meeting, included in all published notices, and open to the public. Topics covered in any open public comment period will not be added to the study session discussion or any agenda items that may be discussed by staff and/or Council members at that the regular Council meeting; topics covered at an open public comment period may be referred to City Staff or added to future Council agenda at the request of a Council member. The Council shall neither take nor agree to take any formal action at such comment periods or study sessions.

The City Council may, by a majority vote of all members elected to the Council cancel or reschedule the regular meetings scheduled for the second or last Tuesdays in November, or the regular meeting scheduled for the last Tuesday in December. In such case, notice of cancellation or rescheduled meeting will be given in the same manner as required for regularly scheduled Council meetings. In the event that inclement weather or other conditions present a danger to public health or safety, any meeting may be rescheduled by the Mayor. In such case, the Mayor and Council will ensure that notice of rescheduled meeting is given in the same manner as required for a regularly scheduled Council meeting.

(Ord. No. 5493, § I, 2-26-19)

Sec. 2-103. - Open public comment periods and formal Council study sessions.

Open public comment periods may be held, as necessary, on the last Tuesday of each month to listen to issues of importance from the public. Topics for discussion will be limited to those that have not already been included in the agenda for a scheduled study session on that same day or the Council's regular meeting scheduled for that day. No discussion shall occur between the Council and the public and no formal action or votes shall be taken on any item during the open public comment period. Open public comment periods shall be noticed and open to the public.

Formal Council study sessions may be held, if necessary, on the first and third Tuesday of each month to discuss issues, develop policies and hear presentations. All items to be discussed during a formal Council study session shall be specifically listed on the agenda for that meeting. No formal action or votes will be taken on any item during the formal Council study session and no item that is not on the agenda may be discussed. Formal Council study sessions shall be noticed and open to the public.

(Ord. No. 5493, § II, 2-26-19)

Sec. 2-104. - Special meetings.

Special meetings may be called by the Mayor or by four (4) members of the City Council, the object of which shall be submitted to the Council in writing.

Sec. 2-105. - City Council; quorum; voting.

- (a) A majority of all the members of the City Council must be present at a regular or special meeting to constitute a quorum; but if less than such majority is present at the meeting, the majority of the Council Members present may adjourn from time to time without further notice.
- (b) Except in those cases where Nebraska law requires a greater number of votes, five (5) affirmative votes shall constitute a majority vote required to adopt a motion, resolution, ordinance, action or policy. In those cases where the Mayor is authorized by law to vote, the Mayor's vote may be counted as one (1) of the five (5) necessary affirmative votes.
- (c) On votes requiring two-thirds ( $\frac{2}{3}$ ) vote of the Council, such vote shall require six (6) affirmative votes to pass.
- (d) On votes requiring three-fourths ( $\frac{3}{4}$ ) vote of the Council, such vote shall require six (6) affirmative votes to pass.

## Sec. 2-106. - Agenda for meetings.

All matters for consideration at any regular meeting or formal study session of the City Council shall be submitted in writing and filed in the office of the City Clerk. The City Clerk shall place upon the agenda of any regular, special or formal study session meeting only those matters which have been directed by one (1) Council Member, or authorized by the Mayor or the City Administrator.

## Sec. 2-107. - Rules of order.

The current edition of Robert's Rules of Order shall guide the proceedings of the Council where not in conflict with statutes or ordinances.

## Sec. 2-108. - Meeting; rules of conduct.

The business and proceedings of the meeting of the Council shall be conducted in accordance with the following rules:

- (1) No electronic communication with, among, or between council members and staff or any other person shall be permitted during the Council meeting.
- (2) The presiding officer may refer back to any order of business after passing it, if there is no objection from any Council Member.
- (3) The presiding officer shall preserve order at all meetings. All questions of order shall be decided by the presiding officer, subject to appeal to the Council. In such appeal, a Council Member shall state briefly what in their opinion the ruling should have been and upon this appeal being seconded, the question of the appeal shall be called by the presiding officer.
- (4) When a question is being called by the presiding officer, no Council Member shall leave the Council Chambers.
- (5) Upon request of any Council Member, any motion or resolution shall be reduced to writing before being acted upon.
- (6) The minutes of the meeting shall show the Council Member who offered or introduced a motion, resolution, or ordinance and the Council Member seconding the same.
- (7) The individual votes cast by Council Members upon any question shall be taken and recorded in the minutes.
- (8) The Council may reprimand or censure any of its members for improper behavior as Council Members. Any resolution, ordinance, or motion may be withdrawn by its introducer or mover with consent of the Council Member seconding same, before same is voted upon.
- (9) Motions to reconsider may only be made by a Council Member who voted with the majority, but such motion to reconsider must be made before the expiration of the third (3rd) regular meeting after the consideration of the same question.
- (10) The presiding officer may reasonably limit the time during which any person not a member of the Council may address a Council meeting.
- (11) The presiding officer may express their opinion on any subject being discussed or debated by the Council.
- (12) When a blank is to be filled and different sums or times are proposed, the question shall be called on the largest sum and longest time first.
- (13) When a question is under debate by the Council, no motion shall be made, entertained or seconded, except the following privileged motions: First, the previous question; second, to table; third, to adjourn. Each of the privileged motions shall be decided without any debate.
- (14) Any rule of the Council may be suspended by a three-fourths ( $\frac{3}{4}$ ) vote of the members present.

## Sec. 2-109. - Audience/participant; rules of conduct.

The following rules are established for audience members and participants at a Council meeting:

- (1) At the discretion of the presiding officer, any person may address the Council, on any agenda item; however, questions to City officials or staff, other speakers, or members of the audience are not permitted and will not be answered.
- (2) Any person wishing to address the Council shall first state their name and address.
- (3) Remarks shall be limited to five minutes unless extended or limited by the Presiding Officer or majority vote of the Council.
- (4) No person will be permitted to address the Council more than once during discussion of a particular agenda item. Rebuttal comments are not permitted.
- (5) Repetitive or cumulative remarks may be limited or excluded by the presiding officer or majority vote of the Council.
- (6) Profanity or raised voice is not permitted.
- (7) Applause, booing, or other indications of support or displeasure with a speaker are not permitted.
- (8) Any person violating these rules may be removed from the Council Chambers.

The following additional rules are established and applicable for public participants at an open public comment period or study session meeting:

- (9) At the direction of the presiding officer, open public comment period speaker topics will be limited to those not covered by a published agenda for any study session, or any regular City Council meeting.
- (10) A priority to speak at open public comment periods and study sessions shall be given to those speakers who reside within the City limits, or within the ETJ (Extra-Territorial Jurisdiction - a two (2) mile radius of the City limits) of Fremont, and then, as time allows, to those who do not.
- (11) Members of the public wishing to speak at a Study Session will be required to limit their comments to those that are directly related to the publically noticed study session agenda topic(s).
- (12) Written letters addressed to the Council will be accepted, as will comment cards that will be made available and collected from those who attend open public comment period and study session meetings who do not wish to speak publically, but have an issue or concern that they believe the Council should be made aware of.

(Ord. No. 5493, § III, 2-26-19)

## Sec. 2-110. - Mayor's committees.

Mayor's committees may be appointed by the Mayor without Council approval to advise the Mayor in regard to special issues. Mayor's committees are subject to the open meetings law. Findings and recommendations of Mayor's committees shall be submitted to the Mayor and shall be considered as advising the Mayor only and not the Council.

## Sec. 2-111. - Council committees.

Committees of the Council may be created by the Mayor and approved by a majority of the Council to advise the Council in regard to special issues. Each committee will consist of not more than four (4) Council Members, appointed by the Mayor and confirmed by the Council. The committees may also consist of other members, including staff, who shall serve only as non-voting members. The manner of appointment shall be the same. The chairman of the committee will be a Council Member. Council committees shall conduct their meetings in compliance with the open meetings law, shall maintain minutes of all meetings, and

shall submit their minutes, findings, and recommendations to the City Council in writing in a timely manner. Appointments to Council Committees shall be for a term of one (1) year unless ended sooner by dissolution of the committee. The committee may be dissolved by any of the following actions:

- (1) Majority vote of the committee to dissolve;
- (2) Resolution of the special issue assigned;
- (3) Majority vote of the city council; or
- (4) Expiration of one (1) year from date of creation unless reappointed.

Sec. 2-112. - Board and commissions.

The City Council may establish citizen advisory boards and commissions of either a permanent or temporary nature to study and/or make recommendations on designated issues. The list of boards and commissions shall be maintained and on file in the office of the City Clerk. Certain powers may be delegated to boards and commissions as provided for by statute. Boards and commissions of a permanent nature shall be established by ordinance and members appointed by the Mayor with the consent of the City Council. Boards and Commissions shall conduct their meetings in compliance with the open meetings law, shall maintain minutes of all meetings, and shall submit their minutes to the City Clerk in writing in a timely manner.

Sec. 2-201. - Mayor; powers; duties.

The Mayor shall be elected at large to serve a four (4) year term of office. The Mayor shall preside at all the meetings of the City Council and shall have the right to vote when his vote shall be decisive and the City Council is equally divided on any pending matter, legislation, or transaction and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. He shall have the superintending control of all the officers and affairs of the City and shall take care that the State and City law are complied with. He may administer oaths, and shall sign the commissions and appointments of all the officers appointed in the City. The Mayor may have such jurisdiction as may be vested in him by ordinance over all places within two (2) miles of the corporate limits of the City for the enforcement of health or quarantine laws and the regulation thereof. The Mayor shall have the power after the conviction of any person to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the laws of the City.

Sec. 2-202. - Mayor; veto powers; passage over veto.

The Mayor shall have the power to approve or veto any ordinance passed by the City Council, and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim; provided, that any ordinance, order, bylaw, resolution, award, or vote to enter into any contract, or the allowance of any claim vetoed by the Mayor may be passed over his veto by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members elected to the City Council. If the Mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award, or vote to enter into any contract, or the allowance of any claim, and returns the same with his objection in writing at the next regular meeting of the Council, the same shall become law without his signature. The Mayor may veto any item or items of any appropriation bill, and approve the remainder thereof. The item or items so vetoed may be passed by the Council over his veto as in other cases.

Sec. 2-203. - Council; authority; duties.

Two (2) City Council Members shall be elected for a four (4) year term from each ward. One (1) Council Member from each ward shall be elected at each election, so that terms are staggered. They shall be electors of the City and residents of the ward from which they were elected.

The Council can bind the City of Fremont, Nebraska, by their acts only when they are duly assembled at a regular or special meeting. The City Council shall do all things necessary to comply with, and enforce the ordinances of the City of Fremont and the laws of the State of Nebraska relating to cities of the first class.

The City Council specifically reserves the right to make inquiries of any personnel relative to municipal activities. The City Council may, by motion or resolution, adopt appropriate personnel rules, and amend such rules in the same manner from time to time.

Sec. 2-210. - Contracts; interest of officers prohibited; exceptions.

No officer, elected or appointed, or member of any appointed board or commission having authority to commit public funds for expenditure of the City of Fremont shall be interested, directly or indirectly, in any contract to which the City is a party unless said officer or member demonstrates full compliance with the Nebraska Political Accountability and Disclosure Act, and the expenditure is specifically appropriated and ordered by a vote of three-fourths ( $\frac{3}{4}$ ) of all the members elected to the Council. No contract may be divided for the purpose of evading the requirements of this section. Violation of the provisions of this section shall void the obligation of such contract on the part of the City, and shall constitute a misdemeanor.

ARTICLE 6. - PENAL PROVISION

Sec. 2-601. - Violation, penalty.

Any person who violates any of the prohibitions or provisions of any article or section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular article or section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to exceed one thousand dollars (\$1,000.00) and/or imprisonment for any length of time not to exceed three (3) months, in the discretion of the court.

Sec. 3-501. - Police Department; duties.

The Police Department shall consist of the Chief of Police and such further number of regular policemen as may be duly ordered by resolution of the Council; provided, that the Chief of Police shall have further power to appoint, when necessary, such additional police temporarily as any exigency which may arise may require. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. He shall devote his whole time to the municipal affairs, interests of the City, and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the City. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special policemen shall become thoroughly conversant with the laws of the City, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

Sec. 3-502. - Police Department; private police.

Any person desiring the services of a Special Policeman in or about his business or property, upon agreeing to defray all expenses of the maintenance of such policeman, and upon application to the Mayor, may have any suitable person named for such Special Policeman duly appointed as such. Such Special Policeman shall take the usual oath of office and shall have the power of regular police in the discharge of his duties.

Special Policemen appointed pursuant to this section shall be exclusively employed in the protection of the business and property of such person at whose instance they were respectively appointed and they shall be subject only to the control of such person who shall be responsible for the pay of such officer, and the City shall in no case incur any liability of any character whatever by reason of the appointment of such officer.

Sec. 3-503. - Police Department; uniforms, badges.

Except as otherwise provided by this Article, each policeman of the City shall be provided with a suitable badge or insignia of office, which he shall wear in a conspicuous place upon his person at all times when on duty. Further, unless otherwise provided by this Article, all police officers shall provide themselves with and wear a uniform while on duty, if so required by the Council.

Sec. 3-512. - Police Department; arrest and enforcement jurisdiction.

- (a) Every Municipal law enforcement officer shall have the power and authority to enforce the laws of this state and the Municipality or otherwise perform the functions of that office anywhere within his or her primary jurisdiction. Primary jurisdiction shall mean the geographic area within territorial limits of the Municipality.
- (b) Any Municipal law enforcement officer who is within this state but beyond the territorial limits of his or her primary jurisdiction, shall have the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of his or her primary jurisdiction in the following cases:
  - (1) Any Municipal law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;
  - (2) Any Municipal law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within twenty-five (25) miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return such person to the officer's primary jurisdiction;
  - (3) Any Municipal law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and
  - (4) If the Municipality, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the Municipality shall provide liability insurance coverage for its own law enforcement personnel as provided in section 13-1802 RS Neb.
- (c) If Municipal law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the Municipality in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel shall have the power and authority to enforce the laws of this state or any legal ordinances

or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of their primary jurisdiction. The Municipality shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement of its personnel outside the limits of the Municipality pursuant to this subsection.

#### ARTICLE 10. - PENAL PROVISION

##### Sec. 3-1001. - Violation; penalty.

Any person who violates any of the prohibitions or provisions of any Article or section of this Chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular Article or section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to exceed one thousand (\$1,000.00) dollars and/or three (3) months, in the discretion of the court

#### ARTICLE 1. - DOGS AND CATS

##### Sec. 6-101. - Dogs and cats; definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Abandon* means to leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

*At Large*. "At Large" shall be intended to mean off the property of his owner, keeper, or harbinger, and not under control of a competent person. A dog shall be deemed to be under control and in restraint within the meaning of this ordinance when it is controlled by leash, at "heel" beside a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets or within the property lines of its owner, keeper or harbinger.

*Animal*. Any live, vertebrate creature other than human beings. The term shall not include an uncaptured wild creature.

*Animal Control Officer* means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, Health Department employee, employee of the Animal Control Authority, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations, or ordinances.

*Animal Control Authority* shall mean an entity authorized to enforce the animal control laws of the City designated by the City Council.

*Animal Shelter*. Any facility operated by or contracted with the City or the Animal Control Authority for the purpose of impounding or caring for animals held under the authority of this chapter.

*Auctions*. Any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this ordinance. This section does not apply to individual sales of animals by owners.

*Birds*. Any feathered vertebrate, including pigeons, but excluding poultry and raptors.

*Bite*. Any seizure with the teeth by an animal.

*Circus*. A commercial variety show featuring animal acts for public entertainment.

*Commercial Animal Establishment.* Any pet shop, grooming shop, auction, riding school or stable, circus, performing animal exhibition, or kennel (this term shall not include a Veterinary Hospital or Veterinary Clinic).

*Cruelly mistreat* means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm or cause pain upon any animal.

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

*Dangerous animal* means an animal that (i) has killed a human being; (ii) has inflicted injury on a human being that requires medical treatment; (iii) has killed a domestic animal without provocation; or (iv) has been previously determined to be a potentially dangerous animal by an Animal Control Authority or animal Control Officer, the owner has received notice of such determination, and the animal inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals, or any specific animal declared to be a dangerous animal by the City Council, Chief of Police or the Animal Control Officer. An animal shall not be defined as a dangerous animal hereunder if the individual was antagonizing, tormenting, abusing, or assaulting the animal at the time of the injury or has, in the past, been observed or reported to have antagonized, tormented, abused, or assaulted the animal. An animal shall not be defined as a dangerous animal if the injury, damage, or threat was sustained by an individual who, at the time, was committing a willful trespass, was committing any other tort upon the property of the owner of the animal, was tormenting, abusing, or assaulting the animal, or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal, or was committing or attempting to commit a crime.

*Domestic animal.* Any of various animals domesticated by people so as to live and breed in a tame condition and shall include, but not be limited to cats or dogs.

*Domesticated* shall mean a tame animal that is subject to the dominion and control of an owner and accustomed to living in or near habitation without requiring extraordinary restraint or unreasonably disturbing such human habitation.

*Enclosure.* Any tract of land intended to restrain or contain an animal by means of a building, fence, or any other means.

*Feral animal.* Any dog or cat found at large within the Municipality without a collar, license tag, or identification tag that appears to be living as a wild animal or is not a domesticated animal.

*Feral cat colony.* Any number of unowned, free-roaming cats that frequent an area seeking food or shelter.

*Feral cat colony caretaker.* A person who provides care for, but does not own, cats who are part of a feral cat colony and holds a feral cat colony caretaker permit from the Animal Control Authority.

*Fowl.* Any poultry, other than pigeons.

*Grooming shop.* A commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

*Health Department* means the Central District Health Department or any agency with which the City contracts to enforce the provisions of Chapter 6 - Animals of the Fremont City Code related to public health and welfare.

*Hybrid animal* means any animal which is the product of the breeding of a domestic animal with a nondomestic animal species.

*Humane killing* means the destruction of an animal by a method which causes the animal a minimum of pain and suffering.

*Impound.* The act of capturing and arranging the temporary confinement of any animal by any Animal Control Officer.

*Kennel.* Any premises or cattery, wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

*Livestock.* Any hoofed animal commonly associated with domestic agricultural purposes, including but not limited to: potbellied pigs, horses, mules, donkeys, cows, sheep, goats, llamas, hogs.

*Medical treatment* means treatment administered by a veterinarian, physician or other licensed health care professional.

*Mutilation* means intentionally causing permanent injury, disfigurement, degradation of function, incapacitation, or imperfection to an animal. Mutilation does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices.

*Neutered male.* "Neutered male" shall be intended to mean any male animal which has been operated on to prevent conception.

*Owner or custodian.* Any person, partnership, or corporation owning, keeping, possessing, harboring, or knowingly permitting one (1) or more animals to remain on or about any premises owned or occupied by such person, excluding a feral cat colony caretaker. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more or has exercised control or custody of the animal. In the event that the owner or keeper of any animal is a minor, the parent or guardian of such minor shall be responsible to ensure that all provisions of these ordinances are complied with.

*Performing animal exhibition.* Any spectacle, display, act, or event other than circuses in which performing animals are used.

*Pet.* Any animal kept for pleasure rather than utility.

*Pet shop.* Any person, partnership, or corporation, whether operated separately or in connection with another business except for a licensed kennel, that buys, sells, or boards any species of animal.

*Police animal* means a horse or dog owned or controlled by the State of Nebraska or any county, city or village for the purpose of assisting a law enforcement officer in the performance of his or her official duties;

*Potentially dangerous animal* means (a) any animal that when unprovoked (i) inflicts an injury on a human being that does not require medical treatment, (ii) injures a domestic animal, or (iii) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack or (b) any specific animal with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

*Repeated beating* means intentional successive strikes to an animal by a person resulting in serious bodily injury or death to the animal.

*Restraint.* Any animal secured by a leash or lead, or under the immediate control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

*Residence.* The structure used as a domicile by a person or a family.

*Riding school or stable.* Any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule, or burro.

*Running at large.* Running at large shall mean any dog or other animal off the premises of the owner and not under the immediate control or restraint of a person physically capable of controlling or restraining the animal.

*Scratch.* Any scraping with the claws by an animal which causes an abrasion, puncture or wound of the skin.

*Serious injury or illness.* Includes any injury or illness to any animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

*Service animal.* As defined in the Americans with Disabilities Act, 42 U.S.C. § 1201 et seq., a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

*Shelter.* Any structure with a roof and walls designed and/or intended to house one (1) or more animals.

*Significant threat to health or safety of dogs or cats* means (a) not providing shelter or protection from extreme weather resulting in serious health or life-threatening conditions predisposing to hyperthermia or hypothermia in dogs or cats, especially those that are not acclimated to the temperature (b) acute injuries involving potentially life-threatening or disabling medical emergencies in which the owner fails or refuses to seek immediate veterinary care (c) not providing food or water resulting in conditions of potential starvation, malnutrition or severe dehydration (d) egregious human abuse such as trauma from beating, torturing, mutilating, burning or scalding; or (e) failing to maintain sanitation resulting in egregious situations where a dog or cat cannot avoid walking, lying or standing in feces.

*Spayed female.* "Spayed female" shall be intended to mean any female animal which has been operated on to prevent conception.

*Torture* means intentionally subjecting an animal to extreme pain, suffering, or agony. Torture does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices.

*Veterinary hospital or veterinary clinic.* Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseased and injured animals.

*Wild animal.* Any live animal normally found living in a state of nature and not normally subjected to domestication, including but not limited to: monkeys, raccoons, skunks, snakes, and lions, but excluding birds. (Ord. No. 5387, 11-8-16)

Sec. 6-102. - Pet license, fee; amounts; delinquent.

The owner of any dog or cat over the age of four (4) months in the City of Fremont shall pay an annual pet license fee for said dog or cat.

The annual pet license as provided in this section shall be issued annually by the City Clerk upon payment of a pet license fee per City Fee Schedule for each neutered male or spayed female and per City Fee Schedule for each unneutered male or unspayed female. The annual pet license as provided in this section shall be for the period of January 1 through December 31 of the licensing year. The pet license provided for by this section shall be secured by each new owner or new resident within thirty (30) days of establishing residency in the City or after acquiring said animal, notwithstanding the fact that the dog or cat may have been registered within the annual period by a previous owner or that the dog or cat had been registered with another authority other than the City of Fremont.

The fee required in above shall become due on January 1 of the licensing year and shall become delinquent on February 1 of each year. The owner of any dog or cat in the City of Fremont registering the same after said fee has become delinquent shall pay a surcharge in accordance with the fees adopted by the governing body identified in the City of Fremont.

Pet licenses shall be issued by the City Clerk on and after the 2nd day of January of each year. Veterinarians issuing pet license for the City shall retain a fee per City Fee Schedule for each pet license issued to cover the cost of issuing said pet license tags. Said fee shall be deducted from the pet license tag payable to the City. On and after March 1st of each year all dogs and cats without pet license tags shall be subject to apprehension and may be impounded by the Police Department or the Animal Control Officer.

No pet license shall be issued by the City Clerk unless and until the dog or cat shall have been vaccinated as prescribed by this article and a certificate of vaccination be presented and delivered to the City for the dog or cat license. Such certificate of vaccination shall be executed by a registered veterinarian who shall certify as to the time, place and date of vaccination for rabies that he administered to the dog or cat, and describe the dog or cat and owner of the dog or cat in sufficient particulars for identification purposes. Said pet license shall not be transferable, and no refund will be allowed in case of death, sale, or other disposition of the licensed dog or cat.

Upon the payment of the license fee, the City Clerk shall issue to the owner of a dog or cat a metallic tag for each dog or cat so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog or cat until the 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 City Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee per City Fee Schedule for each duplicate or new tag so issued. All pet license tag fees and collections shall be immediately credited to the General Fund.

(Ord. No. 5387, 11-8-16; Ord. No. 5479, 11-13-18)

Sec. 6-102.01. - Dog guides, hearing aid dogs, and service dogs; exempt from pet license tag fees.

With the exception of rabies inoculations, the provisions of this section and section 6-102 shall not be intended to apply to dogs whose owners are nonresidents temporarily within the City, nor to dogs or cats brought into the City for the purpose of participating in any dog or cat show.

Every service animal shall be issued a pet license tag as required by local ordinances or resolutions, but no pet license tag fee shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a pet license tag fees as prescribed by local ordinances and resolutions.

(Ord. No. 3875, 2-23-99; Ord. No. 5387, 11-8-16)

**State Law reference—** (Ref. Neb. Neb. R.R.S. § 54-603)

Sec. 6-103. - Number restricted.

- (a) It shall be unlawful to own, keep or harbor at any time more than three (3) dogs and/or five (5) cats over the age of four (4) months per residential or dwelling unit in the city; provided, however, this section shall not apply to kennels and catteries, or holders of pet Animal Avocation Permit.
- (b) The number of animals authorized in section 6-103.01 shall not be in addition to the total number of animals specified under this section.

(Ord. No. 5387, 11-8-16)

Sec. 6-103.01. - Pet animal avocation permit.

- (a) *Permit required.* A permit is required for any person who shall own, keep, harbor or maintain four (4) or more dogs but no more than five (5) dogs total and/or six (6) or more cats but no more than eight (8) total dogs and cats four (4) months of age or older on the lot on which he or she resides or on a contiguous lot, which lot or lots are not zoned for business.
- (b) *Application for permit; issuance; fee.* Any person desiring a pet Animal Avocation Permit shall file an application with the City or Animal Control Authority for issuance of the permit. The City or Animal Control Authority shall inspect for and consider the applicant's compliance with this chapter in determining whether to issue the permit.

An initial inspection fee as prescribed by City Fee Schedule shall be paid at the time of application. In addition, a permit fee as prescribed by City Fee Schedule shall be paid by the applicant annually on the anniversary of the issuance date of the permit.

The initial inspection fee required under this subparagraph (2) is waived for animal rescues, provided such are otherwise in compliance with this chapter.

- (c) *License required.* All animals owned, kept, possessed or harbored under a pet Animal Avocation Permit must be licensed as required by section 6-103, except as provided in section 6-102. Proof of individual license on each pet animal must be provided at the time of inspection.
- (d) *Duration; renewal of permit; revocation.* Such permit shall allow the applicant to pursue the avocation for a period of one (1) year unless said permit is revoked. Being found guilty, in a court of law, of any violation of this chapter, may constitute sufficient cause for revocation of such permit. Failure to permit inspection pursuant to subsection (6) of this section shall be grounds for immediate revocation of this permit. Such permit shall be renewed annually.
- (e) *Maintenance and inspection of premises and animals.* A vocational premises shall be maintained in a clean and safe condition at all times. Sanitary methods shall be used to prevent or abate any offensive odors. The City or Animal Control Authority shall have the right to inspect such premises and the animals therein at reasonable hours to ascertain that the premises are kept in the aforementioned conditions and meet the following operational standards and such other standards as promulgated by the City.
  - (1) Each animal shall at suitable intervals and at least once every twenty-four (24) hours, receive a quantity of wholesome foodstuff suitable for the species' physical condition and age, sufficient to maintain an adequate level of nutrition for the animal;
  - (2) Each animal shall have available at all times an adequate supply of clean, fresh, potable water. If water pans or dishes are used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping;
  - (3) Indoor housing shall provide for adequate ventilation, lighting, temperature control, and construction so as to provide for the safety and comfort of the animals;
  - (4) Each animal shall receive care and medical treatment for debilitating injuries, parasites, and disease, sufficient to maintain the animal in good health and to minimize suffering;
  - (5) Animals maintained pursuant to a vocational permit shall be predominantly maintained indoors. Premises where a vocational permit includes dogs shall provide a fenced enclosure sufficient to contain any dogs while outside.
  - (6) All areas of the premises inspected for a vocational permit shall be made open and available for inspection by the authority.
- (f) *Non-commercial catteries.* Any person possessing a valid non-commercial cattery permit at the time of enactment of this section, without lapse in such cattery permit, must reduce the total number of cats owned, kept, possessed or harbored on or before December 31, 2017 so as to meet the eight (8) animal limit.

(Ord. No. 5387, 11-8-16)

Sec. 6-103.02. - Feral cat colony caretaker permit.

- (a) *Purpose of permit.* The purpose of providing for the permitting of feral cat colony caretakers is to decrease the number of feral cats and feral cat colonies through the humane methods of trap, neuter and release (TNR), attrition, and relocation.
- (b) *Permit required.* A permit is required for any person who cares for, but does not own feral cats that are part of a feral cat colony.

- (c) *Application for permit; issuance; fee.* Any person over the age of eighteen (18) desiring a feral cat colony caretaker permit shall file an application with the City or Animal Control Authority for issuance of the permit. The City or Animal Control Authority shall inspect for and consider the applicant's compliance with this chapter in determining whether to issue the permit. Conviction of this Chapter within the past ten (10) years shall be grounds for denial of a permit. The applicant must provide: (a) a detailed description of each feral cat in the colony; (b) proof that such feral cats in the colony have been sterilized, ear-tipped, vaccinated against rabies, or are being actively trapped to perform sterilization, ear-tipping and vaccination; (c) the address of the private property at which the colony is maintained; (d) written proof of permission from the private property owner to maintain the colony at such address; (e) contact information for the applicant; and (f) such other information as may be required by the City or Animal Control Authority. An initial inspection fee as prescribed by City Fee Schedule shall be paid at the time of the application. In addition, a permit fee as prescribed by the City Fee Schedule shall be paid by the applicant biennially on the anniversary date of the permit. The initial inspection fee required under this subparagraph (C) is waived for animal rescue organizations that are otherwise in compliance with this chapter. The City or Animal Control Authority shall have the right to inspect the address of the private property at which the colony is maintained at reasonable hours from time to time to ascertain that the premises are suitable for feral cat colony caretaking. No feral cat colony caretaker permit shall be issued for an address on public property.
- (d) *Duration; renewal of permit; revocation.* Such feral cat colony caretaker permit shall allow the applicant to maintain the feral cat colony for a period of up to two (2) years unless said permit is revoked. Such permit shall be renewed biennially. The following shall constitute cause for revocation of such permit: (a) conviction, in a court of law, of any violation of this chapter, (b) failure to permit biennial or other inspections of the address at which the feral cat colony is maintained, (c) inability of the caretaker to provide care for the feral cat colony, (d) failure of the caretaker to actively work toward decreasing the number of feral cats within the colony through the humane method of trap, neuter and release (TNR), the continual presence of kittens in the feral cat colony and/or failure to sterilize and relocate adult cats who become members of the colony, or (e) failure of the caretaker to actively work toward the relocation of the feral cat colony. Within sixty (60) days of revocation, the holder of the revoked caretaker permit must relocate the feral cats within the colony to the care of one (1) or more other feral cat colony caretaker permit holders.
- (e) *Reclamation from Animal Control Authority.* The holder of feral cat colony caretaker permit may reclaim from the Animal Control Authority a feral cat, belonging to the colony for which the permit is issued and which has been described on the permit application, without proof of ownership. The fees specified in City Fee Schedule for redemption, impoundment, board fees and other service/medical fees shall not be required for the return of feral cats from a registered colony.
- (f) *Colony size.* The holder of a feral cat colony caretaker permit may maintain a feral cat colony of:
- (1) No more than twenty (20) adult feral cats at an address in areas zoned residential, provided, that if such colony is composed of more than ten (10) adult feral cats, the permit holder must reduce the number of such cats to ten (10) prior to renewal of the permit; or
  - (2) No more than thirty (30) adult feral cats at an address in areas zoned commercial, provided, that if such colony is composed of more than fifteen (15) adult feral cats, the permit holder must reduce the number of such cats to fifteen (15) prior to renewal of the permit.

(Ord. No. 5387, 11-8-16)

Sec. 6-104. - Area wide quarantine—Imposition; vaccination required.

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 announcing the presence of rabies and ordering and requiring all persons owning, possessing, harboring or having the care or control of any animal to be vaccinated by this chapter within the city to have said animal required

to be vaccinated with anti-rabies vaccine, save those individually excepted by the city physician. It shall be the duty of each and every Police Officer and Animal Control Officer in the city to notify the authority of any such animal found running at large within the city.

(Ord. No. 5387, 11-8-16)

Sec. 6-105. - Running at large.

It shall be unlawful for any owner to suffer or permit any dog or other animal to run at large within the corporate limits of the City of Fremont. It shall be the duty of the city Animal Control Officer or other appropriate city law enforcement officer to impound any animal found running at large within the City of Fremont. Every animal found running at large in violation of this or any other section of the Fremont City Code is declared to be a public nuisance and may be impounded. All animals not under the immediate control of a person capable of controlling or restraining the animal may be taken into custody by any Animal Control Officer and impounded in the animal shelter and there confined in a humane manner. The animal shall not be released until the shelter fees are paid. After three (3) violations, said animal will be forfeited by owner and be available for adoption. The City of Fremont may also impose a fine against the owner(s) per City Fee Schedule.

(Ord. No. 5387, 11-8-16)

Sec. 6-106. - Dogs; capture impossible.

The Municipal Police and the Animal Control Officer shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved.

**State Law reference—** (Ref. Neb. R.R.S. § 54-605)

Sec. 6-107. - Dangerous animals, or potentially dangerous animals.

(a) On owner's property.

- (1) While unattended on the owner's property, a dangerous animal or potentially dangerous animal shall be securely confined, in a humane manner, indoors or outdoors in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the animal from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one (1) foot. The pen or structure shall also protect the animal from the elements. The owner of a dangerous animal shall post warning signs on the property where the animal is kept that are clearly visible from all areas of public access and that inform persons that a dangerous animal is on the property. Each warning sign shall be no less than ten (10) inches by twelve (12) inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three (3) inches high on a black background.
- (2) All pens or structures for confining dangerous animals or potentially dangerous animals constructed after November 22, 2016 shall be at least ten (10) feet from any privately-owned property abutting the animal owners' property.

(b) Dangerous animals and potentially dangerous animals restraint; impoundment; confiscation.

- (1) No owner of a dangerous animal or potentially dangerous animal shall fail to keep such animal securely muzzled and restrained by a leash or chain whenever off the owner's property.
- (2) Any dangerous animal or potentially dangerous animal found in violation of Fremont City Code may be immediately impounded by Animal Control Officers. The owner shall be responsible for the costs incurred by the Animal Control Authority for the care of the dangerous animal or potentially dangerous animal confiscated

by the Animal Control Authority or for the destruction of any dangerous animal or potentially dangerous animal if the action by the Animal Control Authority is pursuant to law.

(Ord. No. 5387, 11-8-16)

Sec. 6-108 - Interference with police, animal control; enforcement, jurisdiction; duties.

It shall be unlawful for any person to hinder, delay, or interfere with any Law Enforcement Officer or Animal Control Officer who is performing any duty enjoined upon him by the provisions of this article, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of the animal shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of animals to the shelter.

- (1) This chapter shall be enforced only within the corporate limits of the City of Fremont.
- (2) The Code provisions of this chapter shall be enforced by the City or agency with which the City contracts to enforce said provisions and the Police Department.
- (3) This chapter shall not apply to:
  - a. Care or treatment of an animal by a veterinarian licensed under the Nebraska Veterinary Medicine and Surgery Practice Act;
  - b. Commonly accepted care or treatment of a police animal by a law enforcement officer in the normal course of his or her duties;
  - c. Research activity carried on by any research facility currently meeting the standards of the Federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;
  - d. Commonly accepted practices of hunting, fishing, or trapping;
  - e. Commonly accepted practices occurring in conjunction with rodeos, animal racing, or pulling contests;
  - f. Humane killing of an animal by the owner or by his or her agent or a veterinarian upon the owner's request;
  - g. Commonly accepted practices of animal husbandry with respect to farm animals and commercial livestock operations, including their transport from one (1) location to another and non-negligent actions taken by personnel or agents of the Nebraska Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;
  - h. Use of reasonable force against an animal, other than a police animal, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;
  - i. Killing of house or garden pests;
  - k. Commonly followed humane practices occurring in conjunction with the slaughter of animals for food or byproducts; and
  - l. Commonly accepted animal training practices.

(Ord. No. 5387, 11-8-16)

Sec. 6-109. - Killing and exposing poison prohibited.

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal; provided, that it shall not be unlawful for a person to expose common rat poison mixed only with vegetable substances on his or her own property.

(Ord. No. 5387, 11-8-16)

## Sec. 6-110. - Animal noise; barking and offensive.

It shall be unlawful for any person to own, keep, or harbor any animal 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, streets, or alleys in the Municipality. Upon the written complaint of any person, filed with the City Clerk, that any animal owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, or if a Law Enforcement Officer or Animal Control Officer, or his agents hear or see an animal which by its actions is in violation of this section, the Police or the Animal Control Officer shall notify the owner to silence and restrain the animal. If such violations occur again, the Police or the Animal Control Officer shall issue a citation and the owner shall be fined in accordance to the applicable City Fee Schedule. The provisions of this section shall not be construed to apply to the City Animal Shelter.

(Ord. No. 5387, 11-8-16)

## Sec. 6-111. - Rabies control, reporting and impoundment.

- (a) Any animal which is owned by a person and has bitten any person or caused an abrasion of the skin of any person shall be seized by the Animal Control Authority for a period of not less than ten (10) days if:
  - (1) The animal is suspected of having rabies, regardless of the species and whether or not the animal has been vaccinated;
  - (2) The animal is not vaccinated and is of a species determined by the State of Nebraska to be a rabid species; or
  - (3) The animal is of a species which has been determined by the State of Nebraska to be a rabid species not amenable to rabies protection by immunization, whether or not such animal has been vaccinated. If, after observation and examination by a veterinarian, at the end of the (10) ten-day period the animal shows no clinical signs of rabies, the animal may be released to its owner unless otherwise prohibited by law.
- (b)
  - (1) Except as provided in subdivision (b) of this subsection, whenever any person has been bitten or has an abrasion of the skin caused by an animal owned by another person, which animal has been vaccinated in accordance with State law or regulation or if such injury to a person is caused by an owned animal determined by the State of Nebraska to be a rabid species amenable to rabies protection by immunization which has been vaccinated, such animal shall be confined by the owner or other responsible person as required by the Animal Control Authority for a period of at least ten (10) days and shall be observed and examined by a veterinarian at the end of such ten-day period. If no clinical signs of rabies are found by the veterinarian, such animal may be released from confinement unless ownership of the animal is otherwise prohibited by law.
  - (2) A vaccinated animal owned by a law enforcement or governmental military agency which bites or causes an abrasion of the skin of any person during training or the performance of the animal's duties may be confined as provided in subdivision (a) of this subsection. Such agency shall maintain ownership of and shall control and supervise the actions of such animal for a period of ten (10) days following such injury. If during such period the death of the animal occurs for any reason, a veterinarian shall within twenty-four (24) hours of the death examine the tissues of the animal for clinical signs of rabies.
- (c) Any animal of a rabid species which has bitten a person or caused an abrasion of the skin of a person and which is unowned or the ownership of which cannot be determined within seventy-two (72) hours of the time of the bite or abrasion shall be immediately subject to any tests which the Animal Control Authority believes are necessary to determine whether the animal is afflicted with rabies. The 72-hour period shall include holidays and weekends and shall not be extended for any reason. The tests required by this subsection may include tests which require the animal to be destroyed.
- (d) All incidents of biting or scratching causing bruising, a break in the skin or any other injury shall be reported in writing to the Animal Control Authority by the medical professional treating the injury, the injured party, or in the

case of a minor child, the parent or guardian.

- (e) In the case of domestic or hybrid animals known to have been bitten by a rabid animal, the following rules shall apply:
- (1) If the bitten or exposed domestic or hybrid animal has not been vaccinated in accordance with state statute, such bitten or exposed domestic or hybrid animal shall be immediately destroyed unless the owner is willing to place such domestic or hybrid animal in strict isolation in a kennel under veterinary supervision for a period of not less than six (6) months; and
  - (2) If the bitten or exposed domestic or hybrid animal has been vaccinated in accordance with state statutes, such domestic or hybrid animal shall be subject to the following procedure: (1) such domestic or hybrid animal shall be immediately revaccinated and confined for a period of not less than thirty (30) days following vaccination; (2) if such domestic or hybrid animal is not immediately revaccinated, such domestic or a hybrid animal shall be confined in strict isolation in a kennel for a period of not less than six (6) months under the supervision of a veterinarian; or (3) such domestic or hybrid animal shall be destroyed if the owner does not comply with either subdivision (1) or (2) of this subdivision.

(Ord. No. 5387, 11-8-16)

Sec. 6-112. - Impounded animals, disposition.

- (a) All animals that are not domestic animals, may be humanely euthanized as soon as they are captured or otherwise taken into custody.
- (b) All animals impounded pursuant to section 6-111 and not euthanized shall be retained until completion of the observation period and the determination by a licensed veterinarian that said animal is not infected with rabies, and then may be redeemed by its owner upon payment of the fees for impoundment and cost of care as adopted by the Animal Control Authority and identified in the City of Fremont Fee Schedule. Any domestic animal not claimed within three (3) clear working days after being impounded or such extended period as is granted in writing by the Animal Control Authority to allow the animal's owner to construct a pen or structure in conformance with section 6-107 shall become the property of the Animal Control Authority and may be placed for adoption or humanely euthanized by said agency at its discretion.
- (c) Any animals determined to have rabies by a licensed veterinarian shall be destroyed as soon as possible after that determination is made.
- (d) All domestic animals impounded pursuant to other sections of this chapter shall be retained until redeemed by their owner upon payment of fees for impoundment and cost of care in an amount adopted by the Animal Control Authority and identified in the Fremont Fee Schedule. Any domestic animal not claimed within three (3) clear working days after being impounded or such extended period as is granted in writing by the Animal Control Authority to allow the animal's owner to construct a pen or structure in conformance with section 6-107 shall become the property of the Animal Control Authority and may be placed for adoption or humanely euthanized by said agency at its discretion. The foregoing time period shall not include the day of impoundment.
- (E) No dog or cat impounded under this chapter shall be released until said animal is vaccinated and issued a pet license tag as required by the provisions of this ordinance.

(Ord. No. 5387, 11-8-16)

Sec. 6-113. - Dogs and cats; duties of owner.

If a dog is believed to have rabies or has been bitten by a dog suspected of having rabies, such dog shall be confined by a leash or chain on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of ten (10) days. The owner shall notify the Animal Control Officer of the fact that his dog has been exposed to rabies

and at his discretion, the Animal Control Officer is empowered to have such dog removed from the owner's premises to a veterinary hospital and there placed under observation for a period of ten (10) days at the expense of the owner.

It shall be unlawful for any person knowing or suspecting a dog has rabies to allow such dog to be taken off his premises or beyond the limits of the City without the written permission of the Animal Control Officer. Every owner or other person, upon ascertaining a dog is rabid shall immediately notify the Animal Control Officer or a Law Enforcement Officer who shall either remove the dog to the pound or summarily destroy it. The provisions of this section shall also apply to cats.

(Ord. No. 5387, 11-8-16)

Sec. 6-114. - Rabies control; vaccination required.

(a) *Rabies vaccination.*

- (1) No owner of a dog, cat or ferret over the age of three (3) months shall fail to cause the same to be vaccinated against rabies by a duly licensed veterinarian.
- (2) No owner of a dog, cat, or ferret vaccinated as required by subsection (a) shall fail to have such dog, cat, or ferret revaccinated within ten (10) days of the expiration date set forth for the original or any subsequent vaccination of said dog, cat, or ferret.

(b) *Vaccination certificate.* Every veterinarian who vaccinates a dog, cat, or ferret for rabies shall provide the owner thereof with a certificate showing the date of such vaccination. A copy of each such certificate or a compilation thereof providing notification that a vaccination certificate has been issued shall be provided by each veterinary clinic or veterinary hospital to the City of Fremont by the 10th of each month following the date of issuance.

(c) *Vaccination certificate; duty to exhibit.* The owner of a vaccinated dog, cat, or ferret shall exhibit the certificate of vaccination to any Animal Control Officer upon demand.

(Ord. No. 5387, 11-8-16)

Sec. 6-115. - Dogs, liability of owner.

It shall be unlawful for any person to allow a dog owned kept, or harbored by him, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained, except those damages induced or provoked by the person claiming to suffer such damages.

- (1) Dogs are hereby declared to be personal property for all intents and purposes, and, except as provided in subsection b. of this section, the owner or owners of any dog or dogs shall be liable for any and all damages that may accrue (a) to any person, other than a trespasser, by reason of having been bitten by any such dog or dogs and (b) to any person, firm, or corporation by reason of such dog or dogs killing, wounding, injuring, worrying, or chasing any person or persons or any sheep or other domestic animals belonging to such person, firm, or corporation. Such damage may be recovered in any court having jurisdiction of the amount claimed.
- (2) a. A governmental agency or its employees using a dog in military or police work shall not be liable under subsection (1) of this section to a party to, participant in, or person reasonably suspected to be a party to or participant in the act that prompted the use of the dog in the military or police work if the officers of the governmental agency were complying with a written policy on the necessary and appropriate use of a dog for military or police work adopted by the governmental agency and if the damage occurred while the dog was responding to a harassing or provoking act or the damage was the result of a reasonable use of force while the dog or dogs were assisting an employee of the agency in any of the following:
  1. The apprehension or holding of a suspect if the employee has a reasonable suspicion of the suspect's involvement in criminal activity;

2. The investigation of a crime or possible crime;
  3. The execution of a warrant; or
  4. The defense of a peace officer or another person other than the suspect.
- b. For purposes of this subsection, harassing or provoking act means knowingly and intentionally attempting to interfere with, interfering with, teasing or harassing such dog in order to distract, or agitating or harming such dog.

(Ord. No. 5387, 11-8-16)

## ARTICLE 2. - ANIMALS GENERALLY

Sec. 6-201. - Reserved.

**Editor's note**— Ord. No. 5387, adopted November 8, 2016 repealed § 6-201, which pertained to animals; running at large.

Sec. 6-202. - Animals; banned from municipality.

It shall be unlawful for any person to keep or maintain any horse, mule, sheep, cow, goat, swine, potbellied pigs, poultry, including chickens, roosters, ducks, or geese, or other livestock; in a residentially zoned area within the corporate limits, provided, that any such animals kept within the corporate limits by virtue of a grandfather clause shall not be kept or maintained within fifty (50) feet of any dwelling. This distance shall be measured from any outside edge of the enclosure or place wherein such animals are kept, maintained, or held to the occupied residence affected.

(Code 1972, § 4-3; Ord. No. 5152 12-10-09; Ord. No. 5387, 11-8-17)

**State Law reference**— (Ref. Neb. R.R.S. § 16-235)

Sec. 6-203. - Animals; cruelty and abandonment.

(a) *Cruelty to animals prohibited.*

- (1) No person shall beat, cruelly mistreat, torment, tease, torture, cruelly neglect, or otherwise abuse any animal.
- (2) No person shall cause, instigate, or permit any fight or other combat between animals, or between animals and humans.

(b) *Abandonment of animals prohibited.* No owner of an animal shall abandon such animal.

(Ord. No. 5387, 11-8-16)

Sec. 6-204. - Animals; wild and dangerous.

No person shall keep, or permit to be kept on their residential premises any wild animal as a pet, for display, or for exhibition purposes.

No wild and dangerous animals may be kept within the corporate limits except such animals may be kept for exhibition purposes by circuses and educational institutions.

(Ord. No. 3774, 6-25-96; Ord. No. 5387, 11-8-16)

Sec. 6-205. - Animal care; shelters; enclosures.

- (a) *Shelter required.* No owner shall fail to provide his or her pets with shelter of sufficient size to allow each pet to lie down, and of sufficient construction to shield the pets from the wind, sun, temperature extremes and from

precipitation.

- (b) *Enclosure required.* No owner shall fail to confine his or her animals within an enclosure of sufficient size and design to prevent the animal from escaping or to restrain said animal by a securely fastened rope, chain, or cord in such a manner as to prevent such animal from going onto any public property or onto the property of another.
- (c) *Shelters and enclosures; sanitation.* No owner shall fail to keep the shelters and enclosures on his or her property in a sanitary condition. As a minimum, owners shall not fail to:
  - (1) Remove or dispose of in a sanitary manner, the bedding, offal manure, and waste materials accumulating from all animals at least once every seven (7) days.
  - (2) Clean and disinfect said shelters and enclosures so as to prevent the breeding of flies and insects and the emission of deleterious and offensive odors therefrom.

(Ord. No. 5387, 11-8-16)

Sec. 6-206. - Fowls; running at large.

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits.

**State Law reference**— (Ref. Neb. R.R.S. § 16-235; 4-2, Code 1972)

Sec. 6-207. - Reserved.

**Editor's note**— Ord. No. 5387, adopted November 8, 2016, repealed § 6-207 in its entirety. Former § 6-207 pertained to animals; abandonment, neglect, and cruelty; definitions.

Sec. 6-208. - Animals; abandonment, neglect, and cruelty; law enforcement officer; powers; immunity.

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

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

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

(Ord. No. 3545, 1-8-91; Ord. No. 5387, 11-8-16)

**State Law reference**— (Ref. Neb. R.R.S. § 28-1012)

Sec. 6-209. - Animals; abandonment, neglect, and cruelty; penalty.

A person who intentionally, knowingly or recklessly abandons, cruelly mistreats, or cruelly neglects an animal is guilty of an offense.

(Ord. No. 3545, 1-8-91; Ord. No. 5132, 7-28-09)

**State Law reference**— (Ref. Neb. R.R.S. § 28-1009)

Sec. 6-210. - Animals; pitting; definitions.

Bearbaiting shall mean the pitting of any animal against a bear. Cockfighting shall mean the pitting of a fowl against another fowl.

Dogfighting shall mean the pitting of a dog against another dog. Pitting shall mean bringing animals together in combat.

(Ord. No. 3548, 1-8-91)

**State Law reference**— (Ref. Neb. R.R.S. § 28-1004)

Sec. 6-211. - Animals; pitting; prohibited.

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another. Nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose. Nor shall any person knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting. Nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her.

(Ord. No. 3548, 1-8-91)

**State Law reference**— (Ref. Neb. R.R.S. § 28-1005)

Sec. 6-212. - Reserved.

**Editor's note**— Ord. No. 5387, adopted November 8, 2016, repealed § 6-212 in its entirety. Former § 6-212 pertained to animals; pitting; spectators prohibited.

Sec. 6-213. - Animals; animal wastes.

The owner of every animal other than a service animal as defined in the Americans With Disabilities Act, 42 U.S.C. § 1201 et seq., shall be responsible for the immediate removal and proper disposal of any excreta deposited by his/her animal(s) on public walks, recreation areas or private property. It shall be a violation of this section for the owner to fail to immediately remove such excreta when notified of its existence and location, either by the City, by Animal Control Authority, or by the owner of the property on which the excreta was deposited.

(Ord. No. 3931, 6-13-00; Ord. No. 3975, 10-30-01; Ord. No. 5387, 11-8-16)

Sec. 6-214. - Ear cropping, dewclaw removal and taildocking; prohibition.

No person, other than a licensed veterinarian, shall crop the ears, remove the dewclaws, or dock the tail of an animal.

(Ord. No. 5387, 11-8-16)

Sec. 6-215. - Isolation of female animals in heat.

No owner of a female cat or dog in heat shall fail to take reasonable measures to isolate said female from male cats and dogs to prevent contact with such male animals except for planned breeding.

(Ord. No. 5387, 11-8-16)

Sec. 6-216. - Animal training; performing; prizes.

- (a) *Animal training and shows.* Animals may be off a leash when they are being trained for hunting or an animal show at a facility that is owned, leased or operated by a nationally recognized organization or a local affiliate sanctioned

by such organization for the training, showing and betterment of animals such as the American Kennel Club or the United Kennel Club. Animals may be off of a leash at an animal show that is sanctioned by a nationally recognized animal organization if such show obtains a permit from the City of Fremont. The application for said permit shall set forth the date and place of the show or event, and list the types of activities that will be taking place at the event. If the activities at such animal show do not violate any of the provisions of the Fremont City Code other than the running at large ordinance, or involve inhumane treatment of the animals at such event then a permit shall be issued by the City of Fremont, and a copy is sent the Fremont Police Department.

- (b) *Animals as prizes prohibited.* No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (c) *Performing animal exhibitions.*
  - (1) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.
  - (2) All equipment used on a performing animal shall fit properly and be in good working condition.
- (d) *Animals used and trained for law enforcement; exemption.* Any animal used by law enforcement agencies including but not limited to the City of Fremont Police Department, the Dodge County Sheriff's Department or the Nebraska State Patrol shall be exempted from the provisions of the Fremont City Ordinances including the at large and dangerous animal ordinances while such animal is being trained or used for law enforcement purposes.

(Ord. No. 5387, 11-8-16)

#### Sec. 6-217. - Penalties.

- (a) *General penalty.* Any person violating any provision of this chapter shall be fined pursuant to this code. If a violation is of a continuing nature, each day of the violation shall constitute a separate violation.
- (b) *Nuisance.* Any owner or any person in possession of any animal regulated by this chapter who fails to care for and control said animal shall be deemed to be maintaining a nuisance subject to abatement pursuant to the Fremont City Code upon written request by the Director of the Department of Health, City Physician, the City of Fremont Code Enforcement, the Fremont Police Department, or an Animal Control Officer, the abatement of which shall be the forfeiture of the animal or animals in violation. The procedure for abatement of nuisances set forth in the Fremont City Code shall be followed in all cases not involving an imminent threat to public health, safety or welfare or the health, safety or welfare of the animal or animals in violation.

In the event continuation of a public nuisance might cause irreparable harm or poses a serious threat to public health, safety or welfare or the health, safety or welfare of residents of the property in violation, the written notice to abate pursuant to the Fremont Code shall not be required as a condition precedent to commencing a legal action to obtain abatement of the nuisance and the City of Fremont, with the consent of the Mayor, may immediately file an action requesting such temporary or permanent order as is appropriate to expeditiously and permanently abate said nuisance and protect the public health, safety or welfare or the health safety or welfare of the residents of the property in violation.

(Ord. No. 5387, 11-8-16)

#### Sec. 6-218. - Appeal procedure.

- (a) *Dangerous animal and potentially dangerous animal; declaration; appeal; disposition.* If it shall appear to a Fremont Police Officer or an Animal Control Officer that any animal conforms to the definition of a dangerous animal or potentially dangerous animal, written notice declaring the animal a dangerous animal or potentially dangerous

animal shall be delivered to the animal's owner either by personal service or by mail addressed to the last known address of said owner. An officer has the authority and may seize an animal immediately if it is deemed necessary.

In the case of a dangerous animal, within five (5) days of personal service or mailing of a notice of declaration to the animal's owner said owner shall deliver said animal to the Animal Control Authority for impoundment and disposition pursuant to Chapter 6. In the case of a potentially dangerous animal, within five (5) Days of personal service or mailing of a notice of declaration to the animal's owner said owner shall either provide reasonable proof of compliance with Chapter 6 of the Fremont City Code or shall deliver said animal to the Animal Control Authority for impoundment and disposition. Refusal or failure by the owner of any animal declared a dangerous animal or potentially dangerous animal to comply with this subsection shall be a violation of the Fremont City Code and shall be subject to abatement as a public nuisance pursuant to Fremont Municipal Code.

The owner of any animal declared a potentially dangerous animal or dangerous animal by a Fremont Police Officer or an Animal Control Officer may appeal the decision to the Fremont City Council by submitting a letter of appeal to the Fremont City Council within seventy-two (72) hours of either receiving personal service or mailing of the written notice of declaration. The Fremont City Council shall hold a hearing within fourteen (14) days of delivery of the letter of appeal to the Authority. The hearing shall be conducted informally. The animal's owner and Animal Control Authority shall present oral or written statements or reasons supporting or opposing the declaration to the Fremont City Council. Statements by each participant shall be limited to a total time of one (1) hour or less. Upon conclusion of the hearing the Fremont City Council may reverse, modify or affirm the declaration of the Fremont Police Officer or Animal Control Officer. Notice of the determination of the Fremont City Council shall be given to the animal's owner and the Animal Control Authority, either personally or by United States Mail.

(Ord. No. 5387, 11-8-16)

#### ARTICLE 5. - PENAL PROVISION

##### Sec. 6-501. - Violation; penalty.

Any person who violates any of the prohibitions or provisions of any article or section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular article or section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to exceed one thousand dollars (\$1,000.00) and/or imprisonment for any length of time not to exceed three (3) months, in the discretion of the court.

Nebraska Administrative Code Currentness  
Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, Refs & Annos

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Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 001

001 Statement of Purpose.

The purpose of these regulations is to aid in the administration of the Commercial Dog and Cat Operator Inspection Act, Neb. Bev. Stat. §§54-625 to 54-643.

Current with amendments received through April 15, 2020.

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 001, 23 NE ADC Ch. 18, § 001

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Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 002

002 Administration.

These regulations shall be administered by the Department of Agriculture located in the State Office Building, Fourth Floor, 301 Centennial Mall South, Lincoln, Nebraska. The mailing address is P.O. Box 94787, Lincoln, Nebraska 68509-4787. The telephone number is (402) 471-2351; Fax number (402) 471-6893.

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Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 003

003 Definitions.

The definition of terms found in the Commercial Dog and Cat Operator Inspection Act §§54-625 to 54-643 and below shall apply to such terms when found in these regulations.

003.01 ACT means the Commercial Dog and Cat Operator Inspection Act, §§54-625 to 54-643.

003.02 ANIMAL means dogs, cats, and pet animals.

003.03 CAGE CARD means a card that is at least 3 inches by 5 inches in size, made of a durable material or enclosed in a transparent, protective cover, and contains information identifying each dog or cat.

003.04 COMPLETE DESCRIPTION of a dog or cat shall include the breed or type; the sex; the date of birth or approximate age; the weight or approximate size; color; and any distinctive markings.

003.05 DISPOSED OF AND DISPOSITION means the sale, lease, exchange, barter, or any other transfer of a dog or cat, including death or euthanasia.

003.06 EMPLOYEE means any paid or unpaid individual or individuals assisting an operator in the handling and care of the operator's dogs or cats.

003.07 HANDLING means petting, feeding, watering, cleaning, manipulating, loading, crating, shifting, transferring, immobilizing, restraining, treating, training, working or moving, walking or exercising, or any similar activity with respect to any dog or cat.

003.08 HUMANE HANDLING, CARE, TREATMENT, AND TRANSPORTATION means the minimum requirements necessary for a dog's or cat's handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, transport in commerce, adequate veterinary care, and exercise for dogs pursuant to the Act, these regulations, and 9 C.F.R. §§3.1 to 3.19.

003.09 MEDICAL PROCEDURE means vaccinations, worming treatments, x-rays, surgery, medications administered, individual physical and dental examinations, or other similar veterinary medical treatment.

003.10 PERSON means any individual, partnership, limited liability company, association, corporation, joint-stock company, political body, society, community, the public generally or organized group of persons, whether incorporated or not.

003.11 STATEMENT OF INFERTILITY means a statement signed by a veterinarian licensed to practice in Nebraska expressing the opinion that a specific dog or cat is infertile, or is not capable of initiating, sustaining, or supporting reproduction. An example of the Statement of Infertility form is attached as Appendix G.

003.12 TUFTS ANIMAL CARE AND CONDITION SCALES FOR ASSESSING BODY CONDITION, WEATHER AND ENVIRONMENTAL SAFETY, AND PHYSICAL CARE IN DOGS: SECTION II, Weather Safety Scale (Tufts Weather Safety Scale), SECTION III, Environmental Health Scale (Tufts Environmental Health Scale), SECTION IV, Physical Care Scale (Tufts Physical Care Scale) means the guidelines used to objectively assess the health or safety risk of a dog. A copy of these guidelines, as they existed on July 1, 2014, is attached as Appendix F, and incorporated herein by reference.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 003, 23 NE ADC Ch. 18, § 003

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Nebraska Administrative Code Currentness  
Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 004

004 Application For License.

All persons operating a boarding kennel, pet shop, animal control facility, animal rescue, animal shelter, or acting as a dealer or commercial dog or cat breeder shall have a valid license issued by the Department in accordance with the Act and these regulations.

004.01 Any person applying for a license under the provisions of the Act and these regulations shall apply on an application form furnished by the Department. The applicant shall provide all information requested on the application form, including a valid mailing address through which the licensee or applicant can always be reached, and a valid premises address where dogs, cats, pet animals, dog and cat facilities, equipment, and records may be inspected for compliance. The applicant shall list on the application form or on a separate sheet attached to it, the premises, facilities or sites where a person operates, houses, has an interest in or keeps dogs, cats, and pet animals. The applicant shall file the completed application form with the Department. Application forms may be obtained by contacting the Department.

004.02 An applicant shall obtain a separate license for each separate physical facility requiring a license according to the Act and these regulations. For purposes of licensure, a separate physical facility is one which is not located on the same or adjacent parcels of land.

004.03 Any person exempt from the license requirements may voluntarily apply for a license, but shall agree in writing to comply with the requirements set forth in the Act and these regulations. The voluntary licensee is subject to the same inspection and enforcement actions as any other licensee.

004.04 Before the Department issues a license, the application form and required fee must be received and an inspector of the Department shall inspect the operation of the applicant to determine whether the applicant qualifies to hold a license pursuant to the Act, these regulations and the standards set out in [9 C.F.R. §§3.1 to 3.19](#).

004.05 A license shall be issued to specific persons for specific premises, facilities and operations, and does not transfer upon change of ownership or any other change of business or operation nor is it valid at a different location.

004.06 There shall be no refund of fees if an applicant does not pass the qualifying inspection, or if a license is terminated for any reason before its expiration.

004.07 Licensees shall accept delivery of registered mail or certified mail sent by the Department.

004.08 No activity for which a license is required by the Act and these regulations shall be conducted by any person until the requirements for issuing the license have been met and a valid license has been duly issued.

004.09 A license which has been revoked, lapsed, or voluntarily surrendered under the Act and these regulations shall be returned to the Department. The licensee shall provide a written statement to the Director, if the license has been lost or misplaced.

004.10 Each applicant shall make, keep, and maintain:

004.10A Records as required under [23 NAC 18-010](#); and

004.10B Any other information requested by the Department on the application or renewal form.

004.11 A licensee shall notify the Department in writing of any change in the name, address, management, control or ownership of the business or operation, any change in the type of license activities occurring at the licensed location, or of additional sites, within ten (10) days of the change.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 004, 23 NE ADC Ch. 18, § 004

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Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 005

005 License Enforcement Actions.

005.01 The Director may deny issuing or may revoke or suspend a license, or place on probation a licensee on any one (1) or more of the following grounds:

005.01A Deliberate misrepresentation or concealment, including failure to disclose all locations housing dogs or cats made to employees or agents of the Department or reported on the application;

005.01B Conviction of any violation of any law, in any jurisdiction, on the disposition or treatment of dogs or cats;

005.01C The failure of any person to comply with any provision of the Act and these regulations;

005.01D The refusal to allow the Department access to any records for the purpose of examining and copying such records required to be kept under the Act and these regulations;

005.01E The refusal of a licensee to allow Department employees or agents to enter and inspect all premises in or upon which dogs or cats are housed, sold, exchanged, or leased or are suspected of being housed, sold, exchanged, or leased;

005.01F The refusal of any applicant to allow Department employees or agents access to the premises to be licensed to determine if such applicant meets licensure requirements pursuant to the Act and these regulations;

005.01G Failure to pay any required fees under the Act and these regulations. Any returned check will be deemed nonpayment of fees;

005.01H Failure to pay any administrative fine levied pursuant to §54-633;

005.01I Failure to comply with a stop-movement order pursuant to §54-628.01; or

005.01J Having had a license revoked, suspended, or otherwise having been subject to a disciplinary proceeding under any jurisdiction resulting in the applicant having voluntarily surrendered a license or permit to avoid disciplinary sanctions.

005.02 Licensees whose licenses have been suspended or revoked.

005.02A Any person whose license has been suspended or revoked for any reason shall not be licensed under such licensee's name within the period during which the suspension or revocation is in effect. No partnership, firm, corporation or other legal entity in which any such person has an interest, financial or otherwise, will be licensed during that period.

005.02B Any person who has been an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the violation upon which the license was suspended or revoked will not be licensed within the same period during which the suspension or revocation is in effect.

005.03 Any person whose license has been suspended may apply in writing to the Director for reinstatement of the licensee's license. Any person whose license has been revoked may apply in writing to the Director for issuance of a new license.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 005, 23 NE ADC Ch. 18, § 005

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Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 006

006 Inspections and Complaints.

006.01 In addition to the definitions set forth in [23 NAC 18-003](#), the following shall apply to 23 NAC 18-006:

006.01A Abandoned shall mean the term as defined in [Neb. Rev. Stat. §28-1008\(1\)](#).

006.01B Cruelly mistreat shall mean the term as defined in [Neb. Rev. Stat. §28-1008\(3\)](#).

006.01C Cruelly neglect shall mean the term as defined in [Neb. Rev. Stat. §28-1008\(4\)](#).

006.01D Direct violations shall mean violations of the Act, these regulations or [9 C.F.R. §§3.1 to 3.19](#) that have a high potential to adversely affect the health, well-being or safety of the dogs or cats but do not meet the definitions of abandoned, cruelly mistreated, cruelly neglected or significant threat to the health or safety of the dogs or cats.

006.01E Flagged violations shall mean violations of the Act, these regulations or [9 C.F.R. §§3.1 to 3.19](#) that the Department reasonably suspects may involve dogs or cats being abandoned, cruelly mistreated, cruelly neglected or subject to conditions which may pose a significant threat to the health or safety of the dogs or cats.

006.01F Indirect violations shall mean violations of the Act, these regulations or [9 C.F.R. §§3.1 to 3.19](#) that do not have a high potential to adversely affect the health, well-being or safety of the dogs or cats.

006.01G Representative of the operator means a person over the age of nineteen an operator has expressly authorized, verbally or in writing, to the Department, to allow entry on the premises of the licensee operator for the purpose of inspection under the Act. If the operator decides to revoke an authorization, the operator must inform the Department, in writing.

006.02 Any inspection conducted under the Act will be performed in accordance with the Act and these regulations.

006.02A Inspections shall be documented and the written report shall specify a compliance date for any violation of the Act, these regulations or [9 C.F.R. §§3.1 to 3.19](#). Compliance dates shall be set for violations based on the potential effect of the violation on the dogs or cats as follows:

006.02A(1) Flagged violations shall be set with a compliance date ranging between immediately and up to 24 hours, taking into account the seriousness of the violation and the actual harm to the dogs or cats.

006.02A(2) Direct violations shall be set with a compliance date ranging between immediately and up to 45 days, taking into account the seriousness of the violation and the potential harm to the dogs or cats. Compliance dates shall allow the violator to come into compliance while safeguarding the health or safety of the dogs or cats.

006.02A(3) Indirect violations may be given a longer time frame for correction.

006.02B If during any inspection the Department reasonably suspects a person has committed a flagged violation, the following provisions are applicable:

006.02B(1) If the Department reasonably suspects any dog or cat is abandoned or being cruelly mistreated or cruelly neglected, the Department shall, the same day, notify the law enforcement agency of the county in which the alleged violation is occurring.

006.02B(2) If the Director has reason to believe that any alleged violation of the Act or these regulations or an order of the Director or any other existing condition posing a significant threat to the health or safety of the dogs or cats harbored or owned by an applicant or a licensee constitutes cruel neglect, abandonment, or cruel mistreatment, a special investigator appointed as a deputy state sheriff authorized pursuant to [Neb. Rev. Stat. §81-201](#) of the Department may inspect, care for or impound the dogs or cats or the Director may request any other law enforcement officer as defined in [Neb. Rev. Stat. §28-1008](#) to inspect, care for or impound the dogs or cats.

006.02B(3) The Department may enter into agreements with any appropriate public or private entity to provide for the care, shelter and disposition of the impounded dogs or cats.

006.02C The Department, at its discretion, will attempt to make unannounced inspections during normal business hours.

006.03 All premises of operators shall be inspected as often as set out in §54-628, or as often as determined necessary by the Department to carry out its duties under the Act and these regulations.

006.04 If an operator, or a representative of the operator, applicant or any other person the Department has reason to believe is an operator does not make the premises available to the Department for inspection, the following procedures shall be implemented:

006.04A If an operator, or a representative of the operator, applicant or other person the Department has reason to believe is an operator is not present or does not respond to notification of the Department's presence at the premises, the Department will attempt to contact by telephone the operator. If telephone contact is made, the operator will be notified of the intended inspection and that a representative over the age of nineteen must be onsite within a reasonable amount of time, not to exceed two hours, to allow the inspection.

006.04A(1) If the Department cannot make contact with the operator by telephone, or the inspection is not allowed within the set timeframe, a notice of the attempted inspection such as the example Attempted Inspection Notice form, attached as Appendix H, will be posted in a prominent location on the premises, such as the front door of the facility or residence; and

006.04A(2) The failure to allow the Department to have full and complete access for inspections as set forth in subsections (1), (3), (4), (5), (6), (7), (8) and (9) of §54-628 of the Act may be considered by the Department as a refusal by the operator to allow an inspection pursuant to the Act and the Department may seek to obtain an inspection warrant for purposes of inspecting the premises for compliance with the Act, these regulations, or [9 C.F.R. §§3.1 to 3.19](#).

006.04B If the operator expressly refuses to make premises upon which dogs or cats are present available for inspection, the Department may immediately seek to obtain an inspection warrant or a search warrant for purposes of inspecting the premises for compliance with the Act, these regulations, or [9 C.F.R. §§3.1 to 3.19](#).

006.04C Any operator not allowing the Department to make an attempted inspection shall be subject to the reinspection fees set forth in §54-628(3) and subject to the provisions of §54-628 (9) of the Act and the Department may pursue one or any combination of enforcement actions provided.

006.05 All complaints alleging a violation of the Act, these regulations, or [9 C.F.R. §§3.1 to 3.19](#), shall be reviewed and evaluated, after which the Department may assign priorities to the complaints and initiate an inspection. The priorities and inspections shall be conducted in the following descending order when determined by the Department to be reasonable and logical:

006.05A Any written or signed complaint, including those submitted by facsimile or electronic transmission, indicating that a person is in violation or is suspected to be in violation of the Act, these regulations, or [9 C.F.R. §§3.1 to 3.19](#);

006.05B Any complaint from an identified source indicating that a person is in violation or is suspected to be in violation of the Act, these regulations, or [9 C.F.R. §§3.1 to 3.19](#); or

006.05C Any complaint from an anonymous source indicating a person is in violation, or is suspected to be in violation of the Act, these regulations, or [9 C.F.R. §§3.1 to 3.19](#).

006.06 Any complaint indicating a dog or cat is abandoned or being cruelly neglected or cruelly mistreated, shall, the day it is received, be referred to the law enforcement agency of the county in which the alleged violation is occurring. The Department may investigate such complaints for the purpose of determining if there are any violations of the Act, these regulations, or [9 C.F.R. §§3.1 to 3.19](#).

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007 Humane Handling, Care, Treatment, and Transportation of Dogs and Cats.

Operators shall comply with the requirements of the Act and these regulations regarding the humane handling, care, treatment, and transportation of dogs and cats. For the purposes of enforcement of the Act and these regulations, the Department adopts the specifications for the humane handling, care, treatment, and transportation of dogs and cats, the standards of the Animal and Plant Health Inspection Service of the United States Department of Agriculture (USDA), as published in [9 C.F.R. §§3.1 to 3.19 \(2015\)](#) (a copy of which is attached to these regulations as Appendix A and incorporated herein by reference) so long as these standards do not conflict with the Act or these regulations. If there is an inconsistency between the Act and [9 C.F.R. §§3.1 to 3.19](#), the Act shall control. If there is an inconsistency between [9 C.F.R. §§3.1 to 3.19](#), and these regulations, the regulations shall control. Humane handling, care, treatment, and transportation shall include but not be limited to, the following:

007.01 Adequate Food and Water.

007.01A All dogs and cats shall be provided with food at least one time per day, except as otherwise directed by the attending veterinarian. Such food shall be fresh, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of dogs and cats.

007.01B Water shall be continually available to each dog and cat or it must be offered to the dogs and cats as often as necessary to ensure their health or safety, but never less than twice per day for at least one hour each time, unless restricted by the attending veterinarian.

007.01B(1) Factors in determining if a dog or cat is receiving an adequate amount of water from appropriate receptacles and watering systems as set forth in 23 NAC 18-007.10 include, but are not limited to:

007.01B(1)(a) Ambient temperature;

007.01B(1)(b) A dog's or cat's body condition, such as sunken eyes and skin tenting; or

007.01B(1)(c) A dog's or cat's behavior, such as excessive nosing at an empty water bowl.

007.01B(2) Excessive thirst may indicate a disease condition to be addressed by the attending veterinarian.

007.02 Compatible Grouping. All dogs and cats housed in the same primary enclosure must be compatible, with the following restrictions:

007.02A Females in heat (estrus) may not be in the same primary enclosure with males, except for breeding purposes;

007.02B Any dog or cat exhibiting a vicious or overly aggressive disposition must be housed separately;

007.02C Puppies or kittens four months of age or less may not be in the same primary enclosure with adult dogs or cats other than their dams or foster dams;

007.02D Dogs or cats may not be in the same primary enclosure with any other species of animals, unless they are compatible; and

007.02E Dogs or cats that have, or are suspected of having, a contagious disease must be isolated from healthy animals.

007.03 Veterinary Care Requirements for Commercial Dog or Cat Breeders, Pet Shops or Dealers. Attending veterinarian and adequate veterinary care are required for animals under the care, supervision, or control of a commercial dog or cat breeder, pet shop, or dealer.

007.03A Each commercial dog or cat breeder, pet shop, and dealer licensed under the Act and these regulations shall have a written veterinary care plan with an attending veterinarian who is licensed to practice in Nebraska. The formal arrangements shall include a written program of veterinary care and regularly scheduled visits to the premises upon which the dogs or cats are harbored. The form entitled, Veterinary Care Plan, incorporated herein by reference, is attached as Appendix I and may be used to satisfy the requirements for a written veterinary care plan.

007.03B Each commercial dog or cat breeder, pet shop, and dealer licensed under the Act and these regulations shall establish, maintain, and follow programs of adequate veterinary care that include:

007.03B(1) The availability of appropriate facilities, employees, equipment, and services to comply with the provisions in the Act and these regulations;

007.03B(2) The use of appropriate methods to prevent, control, diagnose and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

007.03B(3) The maintenance of individual health records shall be kept pursuant to [23 NAC 18-010.06](#), for:

007.03B(3)(a) All dogs and cats which are sixteen (16) weeks of age or older;

007.03B(3)(b) All dogs or cats younger than sixteen (16) weeks of age when permanently transferred from the litter; or

007.03B(3)(c) Any dog or cat younger than sixteen (16) weeks of age if it received any individual medical procedure, separate from the litter.

007.03B(4) Daily observation of all dogs and cats to assess their health or safety. Provided, however, that daily observation of dogs and cats may be accomplished by someone other than the attending veterinarian; and provided further, that a mechanism of direct and frequent communication is required so that timely and accurate information on problems of dog or cat health, behavior, and well-being is conveyed to the attending veterinarian; and

007.03B(5) Adequate grooming to avoid matted hair which significantly impairs a dog's health or safety or provides a nesting area for disease carrying pests or parasites and to ensure that nails are not impairing the comfort of the dog.

007.04 Additional Veterinary Care Requirements for Commercial Dog Breeders.

007.04A Commercial dog breeders shall have the attending veterinarian annually review and update the veterinary care plan required in [23 NAC 18-007.03A](#) at the time of the onsite visit.

007.04B Commercial dog breeders shall comply with §54-641.02(3)(a) which requires that breeding dogs receive regular grooming. The Tufts Physical Care Scale may be used as a guideline to assist the Department in making a determination as to a dog's adequate regular grooming. Evidence that a dog is receiving adequate regular grooming is shown by:

007.04B(1) The matting of a dog's coat does not exceed ten percent.

007.04B(2) A dog's nails are trimmed short enough to ensure the comfort of the dog.

007.04C All commercial dog breeders shall provide each breeding dog a wellness examination at least once every three years which shall include a basic physical and dental examination pursuant to §54-641.02(1)(c).

007.05 Veterinary Care Requirements for Boarding Kennels, Animal Control Facilities, Animal Rescues and Animal Shelters. Each boarding kennel, animal control facility, animal rescue, and animal shelter shall establish, maintain, and follow a written emergency veterinary care plan. The form entitled, Emergency Veterinary Care Plan, incorporated herein by reference, is attached as Appendix J, and may be used to satisfy the requirements for a written emergency veterinary care plan. The written emergency veterinary care plan shall include:

007.05A The veterinarian of choice by the owner of the dog or cat that is being boarded, in the event veterinary care is needed; or

007.05B A formal arrangement with a veterinarian licensed to practice in Nebraska to provide veterinary services as needed.

007.05C The provision of veterinary care for dogs or cats which are sick, diseased, injured or lame.

007.06 Exercise for Dogs. All operators shall establish and follow an appropriate exercise plan for each dog housed on the premises. All dogs greater than twelve weeks of age, or age specified by the attending veterinarian, shall be provided opportunity for exercise.

007.06A The exercise plan shall be in writing and available to the Department at the time of inspection. Such plan shall:

007.06A(1) Be approved and signed by the attending veterinarian, or incorporated into the veterinary care plan or emergency veterinary care plan; and

007.06A(2) State that the dog has the required exercise space listed in 23 NAC 18-007.06C(1) and 007.06C(2); or

007.06A(3) Identify the frequency, method, and duration of additional exercise if the exercise requirements are not otherwise met.

007.06B Exemptions to the exercise requirement of any dog shall be determined only by the attending veterinarian and shall be recorded in the veterinary care plan or emergency veterinary care plan.

007.06C Animal control facilities, animal shelters, animal rescues, boarding kennels, dealers, and pet shops shall provide exercise to dogs by using the following methods, including, but not limited to:

007.06C(1) An individually housed dog with at least 200% of its minimum required floor space;

007.06C(2) Group housed dogs with at least 100% of the minimum required floor space for each animal;

007.06C(3) Access to a run or open area at the frequency and duration prescribed by the attending veterinarian; or

007.06C(4) Positive interaction with humans, such as walking, playing ball, or grooming.

007.06D Commercial Dog Breeders. Commercial dog breeders shall comply with the requirements set forth in §54-641.01, regarding exercise for dogs owned or harbored by such commercial dog breeders.

007.07 Employee Requirements. All operators shall be responsible for ensuring that:

007.07A Adequate training and guidance are provided to employees involved in the handling, care, and treatment of the dogs and cats on the licensed premises;

007.07B A sufficient number of trained employees are available to perform general husbandry tasks; and

007.07C Employees involved in the handling, care, and treatment of a operator's dogs and cats can, and do, perform at the level required by the Act and these regulations.

007.07D Factors to be considered in determining the adequacy and appropriate number of employees:

007.07D(1) Number of dogs and cats maintained on the premises;

007.07D(2) Maintenance requirements of the individual dogs or cats based on, but not limited to, size, breed, and age;

007.07D(3) Design and construction of the facility; and

007.07D(4) General condition of facility. A facility that is routinely noncompliant in general husbandry areas may indicate too few employees on site, or employees who are not trained in the appropriate humane handling, care, and treatment of dogs and cats.

007.07E Factors indicating inadequately trained, or insufficient number of, employees:

007.07E(1) High incidence of injury to the dogs and cats in the operator's care which are subject to the Act;

007.07E(2) Inadequate cleanliness of facility due to accumulations of litter, food waste, feces, trash, junk, or weeds; or

007.07E(3) Multiple substantiated complaints against the licensed facility by the general public.

007.08 Pest Control. All operators shall establish, maintain, and follow an effective pest control program for the control of insects or external parasites affecting dogs and cats. Signs of an ineffective pest control program may include, but shall not be limited to:

007.08A Sighting of the pest or pests;

007.08B Dog or cat scratching excessively;

007.08C Open sores or sores due to flies and other insects; or

007.08D Areas of hair loss on the dog or cat.

007.09 Primary Enclosures.

007.09A All operators shall maintain primary enclosures for dogs and cats which provide adequate space and flooring in accordance with §54-641. Primary enclosures shall also be maintained in a clean and sanitary manner as follows:

007.09A(1) Be cleaned as often as necessary, but at least one time per day, to:

007.09A(1)(a) Prevent contamination of the animal;

007.09A(1)(b) Minimize disease hazards; and

007.09A(1)(c) Reduce odors.

007.09A(2) Be cleaned daily to remove any excreta and food waste so that no more than twenty-four (24) hours of feces and urine accumulates by:

007.09A(2)(a) Cleaning the entire primary enclosure;

007.09A(2)(b) Cleaning soiled areas only (spot-clean); or

007.09A(2)(c) Any other Department approved method.

007.09A(3) Be cleaned in a manner that does not:

007.09A(3)(a) Harm the dog or cat by the use of direct exposure to steam or harsh or toxic chemicals;

007.09A(3)(b) Contaminate the dog, cat, or its bedding;

007.09A(3)(c) Wet the dog, cat or its bedding; or

007.09A(3)(d) Distress the dog or cat, evidenced by, but not limited to, shivering, shaking, cowering, excessive howling, or whining.

007.09A(4) Have all excreta and food waste removed daily from under the primary enclosure to prevent or reduce:

007.09A(4)(a) Soiling of the dog or cat;

007.09A(4)(b) Disease hazard;

007.09A(4)(c) Pests, insects, and vermin; and

007.09A(4)(d) Odors.

007.09A(5) Be sanitized as set forth in 23 NAC 18-007.10D as often as necessary, but at least one time every two weeks, to minimize disease hazards.

007.09B Tethering. Permanent tethering is prohibited for use as a primary enclosure by any operator. The Department may approve temporary tethering of a dog for up to three (3) days, if the operator: (1) makes the request in writing to

the Department; (2) includes the reason or justification for tethering the dog; and (3) includes the length of time the dog will be tethered. Factors to consider when approving or disapproving temporary tethering of a dog may include, but are not limited to:

007.09B(1) Routine cleaning or maintenance;

007.09B(2) The availability of shelter;

007.09B(3) Length of the tether;

007.09B(4) Type and strength of the tether;

007.09B(5) Method of attachment of tether to the dog;

007.09B(6) Possible entanglements with other animals or objects;

007.09B(7) Access to food and water;

007.09B(8) Access to shade at all times during the day;

007.09B(9) Breed and behavior characteristics of the dog or dogs; and

007.09B(10) Protection from predators.

007.09C Commercial dog or cat breeders shall provide sufficient shade to shelter all the dogs or cats housed in the primary enclosure at one time.

007.10 General Requirements for All Housing Facilities. All housing facilities shall:

007.10A Allow the dogs or cats easy and convenient access to clean food and water which shall be non-toxic and free from algae growth.

007.10A(1) Food and water receptacles and watering systems shall be constructed of hard surfaces which are sanitized as set forth in 23 NAC 18-007.10D(1).

007.10B Be designed, constructed, and maintained in such a manner as to:

007.10B(1) Be structurally sound;

007.10B(2) Be kept in good repair, having no sharp or jagged edges which could injure a dog or cat;

007.10B(3) Be free of excessive rust which prevents the required cleaning and sanitation;

007.10B(4) Securely contain the dogs or cats; and

007.10B(5) Protect the dogs or cats from predators.

007.10C Be kept clean and be easy to clean. All housing facilities shall have waste properly disposed. All operators shall maintain waste disposal procedures for the removal and disposal of animal and food wastes, bedding, dead animals,

trash and debris on all premises where housing facilities are located, including buildings, pens, and surrounding grounds. Weeds, grasses and bushes shall be controlled so as to facilitate cleaning and pest control. The Tufts Environmental Health Scale may be used as a guideline to assist the Department in making a determination as to whether a dog or cat's environment is acceptable.

007.10C(1) Waste disposal procedures shall minimize:

007.10C(1)(a) Pest infestation;

007.10C(1)(b) Vermin infestation;

007.10C(1)(c) Harmful odors; and

007.10C(1)(d) Disease hazards.

007.10C(2) Trash containers in housing facilities, food storage areas, and food preparation areas shall be leak proof and have tightly fitted lids on them at all times.

007.10C(3) The surfaces of housing facilities, including objects within the facility, must be constructed in a manner and made of materials that allow them to be readily cleaned and sanitized, or removed or replaced when worn or soiled.

007.10D Be properly sanitized.

007.10D(1) Hard surfaces which include, but are not limited to, sealed concrete, sealed wood, ceramic tile, stainless steel or other metals, glass board, or strong plastic laminate sheeting, shall be impervious to moisture and sanitized as follows:

007.10D(1)(a) Washing with hot water of at least 180°F and soap or detergent;

007.10D(1)(b) Washing with a detergent solution, followed by a safe and effective disinfectant; or

007.10D(1)(c) Live steam or pressurized live steam.

007.10D(2) For outside non-hard or porous surfaces which include, but are not limited to dirt, sand, gravel and grass, acceptable methods of sanitation include, but are not limited to:

007.10D(2)(a) Removal of feces; and

007.10D(2)(b) Exposure to direct sunlight or use of a safe and effective disinfectant.

007.10E Have proper pest control. All operators shall establish, maintain, and follow an effective pest control program for the control of insects and birds and mammals that are pests, such as starlings and small rodents. Signs of an ineffective pest control program may include, but shall not be limited to:

007.10E(1) Sighting of the pest or pests;

007.10E(2) Droppings;

007.10E(3) Rodent holes;

007.10E(4) Chewed insulation on floors, walls, ceilings and other surfaces; or

007.10E(5) Nests.

007.10F Have proper drainage. All licensed facilities shall have a method to:

007.10F(1) Prevent excess or standing water and other fluids;

007.10F(2) Keep the dog, cat, and its bedding dry; and

007.10F(3) Minimize pest infestation, harmful odors, vermin infestation and disease hazards.

007.10G Provide adequate shelter and protection.

007.10G(1) Each dog and cat shall be provided with adequate shelter from the elements at all times. The Tufts Weather Safety Scale may be used as a guideline to assist the Department in making a determination as to a dog's health or safety risk in adverse weather conditions. Weather conditions may be established by either a reliable weather website or a hand held weather meter which measures weather data. Adequate shelter shall:

007.10G(1)(a) Protect the dogs' and cats' health and safety;

007.10G(1)(b) Allow all the dogs and cats in the enclosure to have access to the shelter at the same time;

007.10G(1)(c) Protect the dogs and cats from adverse weather conditions;

007.10G(1)(d) Be large enough to allow each dog or cat to sit, stand, lie down, and turn around freely; and

007.10G(1)(e) Not include barrels, cars, refrigerators, freezers, washing machines, dryers, and the like.

007.10G(2) Dogs and cats shall be protected from extreme temperatures and weather conditions. The following indicate such shelter and protection is not being provided:

007.10G(2)(a) Dogs or cats have symptoms of hypothermia;

007.10G(2)(b) Dogs or cats have symptoms of hyperthermia;

007.10G(2)(c) Dogs or cats are of a breed not acclimated to the temperature of the primary enclosure;

007.10G(2)(d) Sick, infirmed, aged or young dogs or cats are in conditions which increase their vulnerability;

007.10G(2)(e) Dogs or cats are housed in a way that does not completely protect them from heavy rains; or

007.10G(2)(f) Dogs or cats are housed in such manner that snow blocks access or prevents walking or movement.

007.10H Properly store food, bedding, toxic substances and other items as follows:

007.10H(1) Food storage methods shall protect food from:

007.10H(1)(a) Spoilage;

007.10H(1)(b) Contamination;

007.10H(1)(c) Deterioration of nutritive value; and

007.10H(1)(d) Vermin infestation.

007.10H(2) Food storage areas shall be free of any accumulation of trash, waste material, junk, weeds, and other discarded materials.

007.10H(3) Toxic substances shall not be stored in food storage areas, food preparation areas, or animal living areas unless such substances are stored in a secured cabinet; and

007.10H(4) Bedding shall be stored and maintained in a clean, dry environment to protect from contamination, water damage, and vermin infestation.

007.101 Maintain proper ventilation.

007.101(1) Ventilation in enclosed areas shall be maintained to provide for the health and safety of the dogs or cats being housed.

007.101(1)(a) Proper ventilation shall minimize the following:

007.101(1)(a)(i) Harmful odors;

007.101(1)(a)(ii) Drafts;

007.101(1)(a)(iii) Noxious fumes or toxic gases, including ammonia; and

007.101(1)(a)(iv) Moisture condensation, indicative of excessive humidity, which could cause wet bedding or wetting of the dog or cat.

007.101(1)(b) If upon inspection, an ammonia odor is detected, an ammonia meter may be used to verify the presence of ammonia and may indicate the enclosed area is not ventilated to minimize the ammonia present.

007.101(1)(c) The presence of dogs or cats exhibiting signs of illness or stress associated with poor or improper ventilation may indicate the enclosed area is not ventilated to minimize the conditions listed in 23 NAC 18-007.101(1)(a).

007.101(2) Methods of ventilation may include, but are not limited to:

007.101(2)(a) Windows;

007.101(2)(b) Vents sufficient to allow an adequate exchange of air flow throughout the facility;

007.101(2)(c) Fans, exhaust fans, or blowers;

007.101(2)(d) Air conditioning; and

007.10I(2)(e) Doors.

007.11 Indoor and Sheltered Housing Lighting. Indoor and sheltered housing facilities shall have:

007.11A Sufficient light to permit routine inspection and cleaning of the housing facility;

007.11B Sufficient light, uniformly diffused, to allow the operator, or his or her employees, to observe the dogs and cats housed therein; and

007.11C A regular diurnal lighting cycle of either natural or artificial light shall be provided to all dogs or cats housed in an indoor housing or sheltered housing facility.

007.12 Outdoor Housing. All operators who maintain outdoor housing facilities which contain one or more sheltered structures, shall ensure such structures be constructed so that each shelter:

007.12A Be accessible to each dog or cat;

007.12B Have a roof, floor, and sides;

007.12C Provide adequate protection or shelter from extreme cold or heat;

007.12D Provide protection from direct rays of the sun;

007.12E Provide protection from the direct effects of wind, rain, or snow;

007.12F Have a wind break and rain break at the entrance; and

007.12G Provide a way for the dogs or cats to keep warm, including the availability of clean, dry bedding.

007.13 Transportation. Operators shall only transport dogs or cats in a manner which complies with the following:

007.13A Dogs or cats being transported shall be provided adequate shelter as set forth in 23 NAC 18-007.10G; and

007.13B Proper ventilation shall be maintained as set forth in 23 NAC 18-007.101.

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Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

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008 Identification.

All licensees, except boarding kennels, shall individually identify each dog and cat housed, purchased, sold, leased, exchanged, or otherwise transferred, acquired or disposed.

008.01 For purposes of the Act and these regulations, all licensees with a United States Department of Agriculture license may identify their animals as prescribed in [9 C.F.R. §§2.50 to 2.55, \(2015\)](#), a copy of which is attached to these regulations as Appendix B and incorporated herein by reference. If there is any inconsistency between these regulations and the federal regulations under [9 C.F.R. §§2.50 to 2.55 \(2015\)](#), these regulations shall control.

008.02 Individual identification shall be done by one (1) or more of the following methods:

008.02A An individual identification tag;

008.02B A cage card;

008.02C A distinctive and legible tattoo marking approved by the Department; or

008.02D A microchip implant. Pursuant to §54-641.03, all commercial dog breeders initially licensed on or after October 1, 2012, shall microchip each breeding dog.

008.02E Live puppies or kittens, which are maintained as a litter in the same primary enclosure with their dam, are not required to be individually identified provided the dam has been individually identified in accordance with 23 NAC 18-008;

008.02F Boarding kennels, in lieu of individual identification, shall maintain records as required by [23 NAC 18-010.03](#).

008.03 All puppies and kittens shall be individually identified by the licensee in possession of the puppies and kittens after separation from their litter.

008.04 If, at the time of acquisition, a dog or cat is already individually identified by a tag, tattoo, or microchip which has been applied by another entity, the acquiring licensee shall continue identifying the dog or cat by such identification, except for breeding dogs belonging to a licensee who was initially licensed on or after October 1, 2012. If the dog or cat is identified with more than one method of identification, all identifying names or numbers shall be maintained in the licensee's records.

008.05 Tags, when used as a method of individual identification, shall meet the following requirements:

008.05A Tags may be made of a durable alloy such as brass, bronze, steel or a durable plastic. Aluminum of a sufficient thickness to assure the tag is durable and legible may also be used; and

008.05B Tags shall be embossed or stamped on one (1) side that is easily readable and shall include the individual number or name identifying the dog or cat.

008.06 Licensees shall obtain, at their own expense, tags, tattoos, microchips, cage cards, or any other individual identification method approved by the Department.

008.07 The individual identification number or name from a tag, microchip, tattoo, cage card, or other individual identification shall be recorded and maintained in records for a period of at least three (3) years following a dog's or cat's disposition. For licensees using a microchip, the licensee shall:

008.07A Record the manufacturer of the microchip;

008.07B Record the approximate location of the microchip in the dog or cat; and

008.07C Use an alternative method of individual identification at any time if the microchip system is determined to be ineffective, or if no scanner is available at the time of inspection.

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Nebraska Administrative Code Currentness  
Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

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009 Prohibitions for Stolen Dogs or Cats.

No person shall buy, sell, exhibit, transport or offer for transportation, any stolen dog or cat.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 009, 23 NE ADC Ch. 18, § 009

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Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

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010 Record Keeping.

All records, except records for boarding kennels, shall be kept and maintained for a period of three (3) years, unless the Director requests, in writing, that they be maintained for a longer period, for the purpose of investigation. The three-year time period shall begin from the date a dog or cat was acquired and from the date a dog or cat was disposed. Such records shall include the Certificate of Veterinary Inspection if required by §54-788 for the dogs or cats, and shall be physically maintained on the premises, or be readily available for review at the time of inspection. Records shall contain information sufficient to completely and accurately identify each dog and cat being housed or contained by the operator.

010.01 Acquisition Records for Commercial Dog or Cat Breeders, Pet Shops, Dealers, and Voluntary Licensees.

010.01A Each commercial dog or cat breeder, pet shop, dealer, and voluntary licensee shall make, keep and maintain records or forms based on information obtained from a seller or other source of dogs or cats which fully and correctly document information concerning each dog or cat purchased or otherwise acquired, owned, or held in the licensee's possession or control, including any offspring born of any dog or cat while in the licensee's possession or control. A commercial dog or cat breeder, pet shop, dealer or voluntary licensee may use the form referred to as Record of Acquisition and Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7005 or similar Department approved form to record acquisition of dogs or cats. A copy of Form 7005 is attached to these regulations as Appendix C, and incorporated herein by reference. Records shall be completed within 48 hours of acquiring a dog or cat. Such completed records and forms required to be kept pursuant to this section, shall include:

010.01A(1) The date a dog or cat was purchased, held, owned, received, controlled, or otherwise acquired, including births;

010.01A(2) The name and complete mailing address of the person from whom the dog or cat was purchased, received, or otherwise acquired. Such information is required, regardless of whether or not the person selling, transporting, or otherwise transferring ownership of the dog or cat is required to be licensed under the Act and these regulations;

010.01A(3) The United States Department of Agriculture license number, the license number issued under the Act and these regulations, or the license number from any other state, whichever is applicable. If the license number is not available, one of the following shall be acceptable:

010.01A(3)(a) The vehicle license number and state; or

010.01A(3)(b) The driver's license number and state.

010.01A(4) The method of transportation, including the name of the initial carrier or intermediate handler or, if a privately owned vehicle is used to transport a dog or cat, the name of the owner of the privately owned vehicle;

010.01A(5) The individual identification number or name from the tag, tattoo, microchip, or cage card.

010.01A(6) The form referred to as the USDA's United States Interstate and International Certificate of Health Examination for Small Animals, APHIS Form 7001 (also known as health certificate), or similar state form, a copy of which is attached as Appendix D and incorporated herein by reference, to make, keep and maintain the information required by 23 NAC 18-010 of these regulations, shall accompany all dogs and cats imported into Nebraska. A health certificate shall be signed by a veterinarian who is licensed and accredited in the state of origin of such dogs or cats imported into Nebraska.

010.02 Disposition Records for Commercial Dog or Cat Breeders, Dealers, Pet Shops and Voluntary Licensees.

010.02A Each commercial dog or cat breeder, dealer, pet shop and voluntary licensee shall make, keep, and maintain records and forms for each dog or cat transported, sold, exchanged, leased, deceased, delivered, euthanized or otherwise disposed. Records shall be completed within 48 hours of the disposition of a dog or cat. Such records and forms shall include:

010.02A(1) The form referred to as the Record of Disposition of Dogs and Cats, Animal and Plant Health Inspection Form 7006, a copy of which is attached to these regulations as Appendix E, and incorporated herein by reference. Commercial dog or cat breeders, dealers, pet shops and voluntary licensees may use Form 7006 or a similar Department approved form to record disposition of dogs and cats. Such completed form shall include:

010.02A(1)(a) The date of disposition of each dog and cat;

010.02A(1)(b) The name and complete mailing address of the person to whom a dog or cat was transferred, except when disposition is by death or euthanasia;

010.02A(1)(c) The United States Department of Agriculture license number, the license number issued under the Act and these regulations, or the license number issued by another state, whichever is applicable. If this subpart does not apply, one of the following shall be required:

010.02A(1)(c)(i) The vehicle license number and state; or

010.02A(1)(c)(ii) The driver's license number and state.

010.02A(2) The individual identification number or name from the tag, tattoo, microchip, or cage card;

010.02A(3) A complete description of the dog or cat; and

010.02A(4) If the dog or cat dies or is euthanized, a record of how the animal was disposed, including a description of the circumstances surrounding the death. If euthanized, the name of the person performing the euthanasia and the method of euthanasia shall be recorded in the dog's or cat's health records; or may be recorded generally, in the veterinary care plan.

010.03 Records for Boarding Kennels.

010.03A Every operator of a boarding kennel shall upon the arrival of a dog or cat make, keep, and maintain records or forms which fully and correctly documents the following information concerning each dog or cat boarded, or otherwise kept or maintained:

010.03A(1) Name, address and phone number of dog or cat owner;

010.03A(2) Emergency contact number;

010.03A(3) Dog's or cat's name, age, sex and breed;

010.03A(4) Rabies vaccination information;

010.03A(5) Pre-existing physical problems;

010.03A(6) Medication information and instructions;

010.03A(7) Veterinarian of choice;

010.03A(8) Special feeding instructions, if needed;

010.03A(9) Special boarding instructions, if needed;

010.03A(10) Any additional services to be performed;

010.03A(11) Date received; and

010.03A(12) Date released.

010.03B Every operator of a boarding kennel shall record daily health observations, including any medications, treatments given, and exercise periods shall be maintained.

010.03C All records shall be maintained for a period of sixty (60) days except on those dogs or cats on which a complaint was made by the owner of the kenneled dogs or cats, or if some other problem occurred during boarding, those records shall be kept for one (1) year, unless the Director requests in writing that they be maintained for a longer period, for the purpose of investigation.

010.04 Acquisition Records for Animal Control Facilities, Animal Rescues, and Animal Shelters.

010.04A Each animal control facility, animal rescue, and animal shelter shall make, keep, and maintain records which fully and correctly disclose the following information concerning each dog and cat housed, purchased, leased, exchanged or otherwise acquired, including births. Records shall be completed within 48 hours of acquiring a dog or cat. Such records shall include:

010.04A(1) The form referred to as Record of Acquisition and Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7005, or other Department approved form;

010.04A(2) The date a dog or cat was received or acquired;

010.04A(3) The name and complete mailing address of the person from whom a dog or cat was received or acquired, including the driver's license number; or, the name, official title, and mailing address of any state or political subdivision of a state, or its representative, from whom a dog or cat was received or acquired;

010.04A(4) The individual identification, if available. Dogs or cats having no individual identification at time of entry into the animal control facility, animal rescue, or animal shelter shall be identified in accordance with [23 NAC 18-008](#);

010.04A(5) The form referred to as the USDA's United States Interstate and International Certificate of Health Examination for Small Animals, APHIS Form 7001 (also known as health certificate), or similar state form, shall accompany all dogs and cats imported into Nebraska. A health certificate shall be signed by a veterinarian who is licensed and accredited in the state of origin of such dogs or cats imported into Nebraska.

010.05 Disposition Records for Animal Control Facilities, Animal Rescues, and Animal Shelters.

010.05A Each animal control facility, animal rescue, or animal shelter shall make, keep, and maintain records which fully and correctly documents information concerning each dog and cat sold, exchanged, leased, transferred or otherwise disposed. Records shall be completed within 48 hours of the disposition of a dog or cat. Such records shall include:

010.05A(1) The form referred to as Record of Disposition of Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7006 or other Department approved form;

010.05A(2) The date a dog or cat was sold, exchanged, leased, transferred or otherwise disposed;

010.05A(3) The name and complete mailing address of the person to whom a dog or cat was sold, exchanged, leased, transferred or otherwise disposed;

010.05A(4) The individual identification number or name of the dog or cat; and

010.05A(5) The method of disposition. If the dog or cat dies or is euthanized, a record of how the animal was disposed, including a description of the circumstances surrounding the death. If euthanized, the name of the person performing the euthanasia and the method of euthanasia shall be recorded in the dog's or cat's health records;

010.05B A state or political subdivision of a state which contracts out its animal control duties shall submit information to the Department identifying which licensed animal control facility, animal rescue, or animal shelter is housing or containing the dogs or cats under its animal control authority.

010.06 Health Records. Individual health records of dogs and cats shall be kept and maintained by all operators except boarding kennels. Individual health records, or a copy, shall be prepared within 48 hours. The information for individual health records shall be taken from the person from whom a dog or cat was purchased or otherwise transferred or acquired. Commercial dog breeders shall also comply with any additional requirements set forth in §54-641.02. Health records, or a copy, shall accompany all dogs and cats upon the transfer of ownership, and shall include the following:

010.06A Vaccination records, including rabies vaccination certificate, and any other treatments and medications given;

010.06B All medical procedures performed;

010.06C The reasons for or the condition requiring treatment, medication, or medical procedure, including the results of such treatment, medication or medical procedure; and

010.06D Record of all offspring produced, including the number of litters produced and litter size for each dog and cat.

010.06E If a dog or cat is no longer capable of breeding, or is infertile, and the commercial dog or cat breeder wants to exempt said dog or cat from being counted as part of its breeding stock, a commercial dog or cat breeder may have the dog

or cat surgically sterilized by a licensed veterinarian; or may obtain a statement of infertility from a veterinarian licensed to practice in Nebraska verifying that such dog or cat is no longer capable of breeding. The attending veterinarian may use the Statement of Infertility Form, attached herein as Appendix G.

010.06F If a dog or cat dies, the health records shall include:

010.06F(1) An explanation of how the death occurred (euthanasia, natural causes or other);

010.06F(2) The date of death;

010.06F(3) If euthanasia was performed, the name of the person performing the euthanasia and the method of euthanasia.

Current with amendments received through April 15, 2020.

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 010, 23 NE ADC Ch. 18, § 010

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Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 011

011 Procurement of Dogs and Cats By Dealers and Pet Shops.

011.01 A dealer or pet shop which obtains dogs and cats from within this state shall only obtain such dogs and cats from other licensees who are licensed under the Act and in accordance with these regulations.

011.02 No person shall obtain live dogs or cats by use of false pretenses, misrepresentation or deception.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 011, 23 NE ADC Ch. 18, § 011

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Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 012

012 Licensees Restricted in Sales to Dealers.

Licensees shall not sell to dealers operating within the state who are not licensed under the Act and in accordance with these regulations.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 012, 23 NE ADC Ch. 18, § 012

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Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 013

013 Spaying and Neutering.

Licensees and any other retailer, who transfers ownership of a dog or cat to an ultimate consumer, shall comply with the spaying and neutering requirements of the Act.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 013, 23 NE ADC Ch. 18, § 013

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Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 014

014 Assessment of Administrative Fines.

The Department may impose an administrative fine pursuant to [§54-633\(3\)](#) and this section.

[014.01](#) In addition to the definitions set forth in [23 NAC 18-003](#), the following shall apply to 23 NAC 18-014:

[014.01A](#) LEVEL OF VIOLATION shall mean the alleged violation is a first or subsequent violation.

[014.01B](#) FIRST VIOLATION shall mean the alleged violator has not been found by an order of the Director or any court, or by the violator's own admission in a settlement agreement, to have committed a violation of the Act or these regulations in the three years immediately preceding the date of the alleged violation.

[014.01C](#) SUBSEQUENT VIOLATION shall mean the alleged violator has committed the same violation of the Act or these regulations one or more times within the three years immediately preceding the date of committing the current alleged violation as determined by an order of the Director or any court, or the alleged violator has entered into a settlement agreement admitting to the facts establishing the previous violation.

[014.01D](#) BASE FINE shall mean the amount of the administrative fine set by regulation for a particular violation of the Act or these regulations prior to any adjustments for gravity or size of the operation.

[014.02](#) When it is determined that an administrative fine is an appropriate penalty for a violation of the Act or these regulations, the actual amount of such administrative fine shall be calculated by determining the base fine and making the necessary adjustments for gravity and the size of business as set forth in this section. An alleged violator shall be subject to the assessment of a fine for each violation, but may not be fined for lesser included violations arising out of the same act, if the alleged violator has been fined for the greater violation. The Department may, however, issue any fine at the statutory maximum for any egregious violation. The base fines established for the specific violations are as follows:

[014.02A](#) Failing to provide a dog or cat with necessary food or water.

[014.02A\(1\)](#) Base fine for a first violation is \$2,500.

[014.02A\(2\)](#) Base fine for a subsequent violation is \$5,000.

[014.02B](#) Threatening a dog's or cat's health or safety by egregiously failing to maintain sanitary premises, pens, enclosures, or structures. Such violations may include: (i) filthy premises containing an accumulation of feces, urine, or both, from which the dog or cat cannot extricate itself such that the premises would be rated as filthy or very unsanitary on the Tufts Environmental Health Scale; (ii) overwhelming odor creating poor air quality which makes breathing difficult for the dogs and cats due to insufficient ventilation, insufficient cleaning of animal waste, or both; (iii) large amounts of litter, food waste, trash, junk, or weeds are present, which inhibits comfortable rest, normal postures or movement,

or poses an immediate danger to dogs and cats; (iv) dogs and cats having no means to escape contact with feces, urine, mud, or standing water; (v) animals provided with contaminated food, drinking water, or both; (vi) dogs and cats being handled in a manner that causes a significant threat to health or safety, or (vii) exposes the dogs or cats to sharp, jagged objects in or on parts of the primary enclosures; or (viii) excessive rust that prevents the required cleaning and sanitation, or which affects the structural strength of the surface or (ix) infestation of insects, parasites, or rodents.

014.02B(1) Base fine for a first violation is \$2,500.

014.02B(2) Base fine for a subsequent violation is \$5,000.

014.02C Failing to provide shelter or protection from extreme temperatures or humidity and weather conditions suitable for the age, species, breed or type, and physical condition of the animal so as to provide for the dog's and cats health or safety. Such violations may include dogs and cats which are subjected to temperature extremes resulting in hypothermia, hyperthermia, or any condition related thereto.

014.02C(1) Base fine for a first violation is \$2,500.

014.02C(2) Base fine for a subsequent violation is \$5,000.

014.02D Failing to provide dogs and cats with adequate space required for the species or breed whereby such animal has no room to stand, sit, lie down in a comfortable, normal position, or turn about freely, and to walk in a normal manner.

014.02D(1) Base fine for a first violation is \$2,500.

014.02D(2) Base fine for a subsequent violation is \$5,000.

014.02E Failing to maintain a dog in a healthy condition as an indicator of the overall health or safety of such dog. For example, a matted dog with significant underlying lesions, other health impairments, or both, resulting from the mats, is a failure to maintain a dog in a healthy condition.

014.02E(1) Base fine for a first violation is \$2,500.

014.02E(2) Base fine for a subsequent violation is \$5,000.

014.02F Failing to provide veterinary care for a dog or cat when such veterinary care appears to be necessary, and is later determined by a veterinarian that such care was necessary for the health or safety of such dog or cat.

014.02F(1) Base fine for a first violation is \$2,500.

014.02F(2) Base fine for a subsequent violation is \$5,000.

014.02G Violating 54-628(4) or otherwise refusing to allow the Department to enter the premises during normal business hours for the purposes of inspection under the Act and these regulations, or otherwise denying access to any officer, agent, employee, or appointee of the Department.

014.02G(1) Base fine for a first violation is \$2,500.

014.02G(2) Base fine for a subsequent violation is \$5,000.

014.02H Interfering with the Department in the performance of its duties. Such interference includes offering any resistance to, thwarting, or hindering any officer, agent, employee, or appointee of the Department and any misrepresentation or concealment, or hiding dogs or cats or failing to disclose all locations housing dogs or cats harbored by the alleged violator.

014.02H(1) Base fine for a first violation is \$2,500.

014.02H(2) Base fine for a subsequent violation is \$5,000.

014.02I Failing to comply with an order of the Director.

014.02I(1) Base fine for a first violation is \$2,500.

014.02I(2) Base fine for a subsequent violation is \$5,000.

014.02J Using any license issued by the Department while the license is under suspension; or, for purposes other than those authorized by the Act.

014.02J(1) Base fine for a first violation is \$2,500.

014.02J(2) Base fine for a subsequent violation is \$5,000.

014.02K Failing to make available to the Department, for purposes of inspection or to copy, all records, papers, and other information necessary for the enforcement of the Act and these regulations, or both.

014.02K(1) Base fine for a first violation is \$2,500.

014.02K(2) Base fine for a subsequent violation is \$5,000.

014.02L For commercial dog breeders: (1) failing to have euthanasia performed by a licensed veterinarian; (2) failing to have surgical births or other surgical procedures performed by a licensed veterinarian using anesthesia; or (3) failing to contact a licensed veterinarian without delay after an occurrence of a serious or life-threatening injury or medical condition of a dog under such dog breeder's care, supervision or control.

014.02L(1) Base fine for a first violation is \$2,500.

014.02L(2) Base fine for a subsequent violation is \$5,000.

014.02M Failing to comply with the wellness examination for each breeding dog at least once every three years, including a basic physical and dental examination.

014.02M(1) Base fine for a first violation is \$2,500.

014.02M(2) Base fine for a subsequent violation is \$5,000.

014.02N Failing to accept delivery of registered mail or certified mail after being verified by the United States Postal Service as not being picked up by the licensee or his or her representative.

014.02N(1) Base fine for a first violation is \$1,500.

014.02N(2) Base fine for a subsequent violation is \$3,000.

014.02O Impairing a dog's or cat's health or safety by failing to maintain sanitary premises, pens, enclosures or structures. Such violations may include, but shall not be limited to: (i) an accumulation of waste matter making it difficult for a dog or cat to avoid such that the premises would be rated as unsanitary on the Tufts Environmental Health Scale; (ii) moderate amounts of litter, food waste, trash, junk or weeds are present which may inhibit comfortable rest, normal movement, or both; (iii) potential injury to a dog or cat from sharp edges or glass; or (iv) standing water or mud making it difficult for a dog or cat to avoid.

014.02O(1) Base fine for a first violation is \$1,500.

014.02O(2) Base fine for a subsequent violation is \$3,000.

014.02P Failing to inform the Department of any convictions of any violation of any local ordinance, county resolution, state or federal law on the disposition or treatment of dogs or cats.

014.02P(1) Base fine for a first violation is \$1,500.

014.02P(2) Base fine for a subsequent violation is \$3,000.

014.02Q Failing to comply with any provisions of the Act and these regulations which may impair the health or safety of a dog or cat including, but not limited to, failing to effectively control insects or external parasites affecting dogs or cats.

014.02Q(1) Base fine for a first violation is \$1,500.

014.02Q(2) Base fine for a subsequent violation is \$3,000.

014.02R Failing to notify the Department of any change in the name, address, management, control or ownership of the business or operation, or of additional sites.

014.02R(1) Base fine for a first violation is \$1,500.

014.02R(2) Base fine for a subsequent violation is \$3,000.

014.02S Failing to keep all records required by the Department.

014.02S(1) Base fine for a first violation is \$1,500.

014.02S(2) Base fine for a subsequent violation is \$3,000.

014.02T Failing to maintain a written veterinary care plan or a written emergency veterinary care plan.

014.02T(1) Base fine for a first violation is \$500.

014.02T(2) Base fine for a subsequent violation is \$1,000.

014.02U Failing to develop, maintain or follow the exercise plan for dogs.

014.02U(1) Base fine for a first violation is \$500.

014.02U(2) Base fine for a subsequent violation is \$1,000.

014.02V Failing to maintain sanitary premises such that the premises would be rated as marginal on the Tufts Environmental Health Scale, or otherwise failing to maintain premises, structures, enclosures or pens in accordance with the standards set forth in the Act, these regulations and [9 C.F.R. §§3.1 to 3.19](#).

014.02V(1) Base fine for a first violation is \$500.

014.02V(2) Base fine for a subsequent violation is \$1,000.

014.02W Failing to pay any required fees under the Act and these regulations. A check with insufficient funds will be deemed nonpayment of fees.

014.02W(1) Base fine for a first violation is \$500.

014.02W(2) Base fine for a subsequent violation is \$1,000.

014.02X Failing to properly identify dogs and cats.

014.02X(1) Base fine for a first violation is \$500.

014.02X(2) Base fine for a subsequent violation is \$1,000.

014.02Y Any other violation of the Act, these regulations and [9 C.F.R. §§3.1 to 3.19](#) not otherwise set out in 23 NAC 18-014.

014.02Y(1) Base fine for a first violation is \$500.

014.02Y(2) Base fine for a subsequent violation is \$1,000.

014.03 Gravity adjustment criteria. The base administrative fine may be changed by considering the gravity of harm of the violation and the gravity of misconduct of the person committing the violation. The specific numerical value will be assigned to each category as set forth in the following charts:

014.03A Gravity of harm.

<u>Violation</u>	<u>Circumstances</u>	<u>Value</u>
Department's Ability to Enforce the Act	Violation significantly interfered with Department's ability to enforce the Act	5
	Violation moderately interfered with Department's ability to enforce the Act	3
	Violation slightly interfered with Department's ability to enforce the Act	1

	Violation did not interfere with Department's ability to enforce the Act	0
	Actual life threatening harm to dog or cat health or safety.	5
	Actual serious harm to dog or cat health or safety.	4
Harm to Dog or Cat Health	Potential serious harm to dog or cat health or safety.	3
	Minor actual harm to dog or cat health or safety.	2
	Minor potential harm to dog or cat health or safety.	1
	No potential harm to dog or cat health or safety.	0
	Violations at operation so widespread and pervasive the quality of care at the entire operation is affected	5
	Numerous and widespread violations greatly affecting the quality of care at operation	4
Extent of Violations At Operations	Moderately widespread violations moderately affecting the quality of care at operation	3
	Less widespread violations, slightly affecting the quality of care at the operation	2
	Only a few minor violations, not affecting the quality of care at the operation	1
	No violations at operation	0

014.03B Gravity of misconduct. For the purposes of this subsection prior violation means a violation which was committed within the last three years.

<u>Violation</u>	<u>Circumstances</u>	<u>Value</u>
	Two or more prior violations, either similar or unrelated to current violation	3
	One prior violation similar to current violation	2

Compliance History	One prior violation unrelated to current violation	1
	No prior violations	0
Culpability	Knowing or willful violation.	5
	Violation resulting from faulty, careless, or negligent action	3
	Violation was neither knowing or willful and did not result from faulty, careless, nor negligent action	0
Remedial Efforts	Violator voluntarily notified the Department of incident or violation	-1
	Violator instituted steps to correct the violation immediately after discovery of the violation	-2
	Violator notified the Department of incident and took reasonable and timely steps to correct the violation	-3
Financial Gain	Violation has or would have resulted in significant financial gain for violator.	3
	No financial gain to violator as a result of violation	0

014.03C To determine the adjusted fine, the base fine shall be adjusted based on the total number of points calculated from 23 NAC 18-014.03A and 014.03B and multiplying the base fine by the gravity adjustment percentage of base value set forth below.

#### **Adjustments for Gravity**

<b><u>Total Gravity Value</u></b>	<b><u>Adjustment</u></b>
3 or below	25% of base value
4-6	50% of base value
7-10	75% of base value
11 or above	100% of base value

014.04 To determine the actual administrative fine, the adjusted fine as determined in 23 NAC 18-014.03C shall be multiplied by the appropriate value corresponding with the size of operation criteria set forth below.

#### **Size of Operation Criteria**

**Number of Dogs or Cats at Operation**

**Multiplier Value**

0 to 5	0.2
6 to 15	0.4
16 to 30	0.6
31 to 50	0.8
over 51	1.0

014.05 Nothing in these regulations shall prevent the Department from entering into a settlement agreement with any person violating the Act or these regulations which specifies a different fine or other compliance action.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 014, 23 NE ADC Ch. 18, § 014

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Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 015

015 Publications Adopted.

See Appendix.

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 015, 23 NE ADC Ch. 18, § 015

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Neb. Admin. R. & Regs. Tit. 23, Ch. 18, § 016

016 Annotation.

[Neb. Rev. Stat. §§54-625 to 54-643](#)

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Agriculture, Department of  
Title 23: Bureau of Animal Industry  
Chapter 18 - Commercial Dog and Cat Operator Inspection Regulations (Refs & Annos)

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, Appendix

Appendix

A. Code of Federal Regulations, 9 C.F.R., Part 3 - Standards, Subpart A - Humane Handling, Care, Treatment, and Transportation of Dogs and Cats, §§3.1 to 3.19 (2015).

B. Code of Federal Regulations, 9 C.F.R., Part 2 - Regulations, Subpart E - Identification of Animals, §§2.50 to 2.55 (2015).

C. Record of Acquisition and Dogs and Cats on Hand, APHIS FORM 7005.

D. United States Interstate and International Certificate of Health Examination for Small Animals, APHIS FORM 7001.

E. Record of Disposition of Dogs and Cats, APHIS FORM 7006.

F. Tufts Animal Care and Condition Scales for Assessing Body Condition, Weather and Environmental Safety, and Physical Care in Dogs: SECTION II. Weather Safety Scale, SECTION III, Environmental Health Scale, and SECTION IV, Physical Care Scale.

G. Statement of Infertility.

H. Attempted Inspection Notice.

I. Veterinary Care Plan.

J. Emergency Veterinary Care Plan.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

Current with amendments received through April 15, 2020.

Neb. Admin. R. & Regs. Tit. 23, Ch. 18, Appendix, 23 NE ADC Ch. 18, Appendix

West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 1. Incorporation, Extensions, Additions, Wards

Neb.Rev.St. § 16-101

16-101. Cities of the first class, defined; population required

[Currentness](#)

All cities having more than five thousand and not more than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall be known as cities of the first class. The population of a city of the first class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city.

**Credits**

Laws 1901, ch. 18, § 1, p. 226; Laws 1965, ch. 85, § 3, p. 328; [Laws 1993, LB 726, § 5](#); [Laws 2017, LB 113, § 9](#), eff. Aug. 24, 2017.

Codifications: R.S. 1913, § 4804; C.S. 1922, § 3972; C.S. 1929, § 16-101; R.S. 1943, § 16-101.

[Notes of Decisions \(8\)](#)

Neb. Rev. St. § 16-101, NE ST § 16-101

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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Proposed Legislation

[West's Revised Statutes of Nebraska Annotated](#)  
[Chapter 16. Cities of the First Class](#)  
[Article 2. General Powers](#)

Neb.Rev.St. § 16-201

16-201. General powers

[Currentness](#)

Each city of the first class shall be a body corporate and politic and shall have power (1) to sue and be sued, (2) to purchase, lease, lease with option to buy, or acquire by gift or devise and to hold real and personal property within or without the limits of the city and real estate sold for taxes for the use of the city in such manner and upon such terms and conditions as may be deemed in the best interests of the city, (3) to sell and convey, exchange, or lease any real or personal property owned by the city, including park land, in such manner and upon such terms and conditions as may be deemed in the best interests of the city, except that real estate owned by the city may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed in the manner strictly as provided in [sections 18-1001 to 18-1006](#), (4) to make all contracts and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate powers, and (5) to exercise such other and further powers as may be conferred by law.

**Credits**

Laws 1901, ch. 18, § 8, p. 230; Laws 1935, Sp. Sess., ch. 10, § 6, p. 74; Laws 1941, ch. 130, § 12, p. 497; Laws 1963, ch. 60, § 1, p. 252; Laws 1965, ch. 48, § 1, p. 248; Laws 1971, LB 5, § 1; Laws 1975, LB 150, § 1; Laws 1988, LB 793, § 3.

Codifications: R.S. 1913, § 4816; C.S. 1922, § 3984; C.S. 1929, § 16-201; C.S. Supp., 1941, § 16-201; R.S. 1943, § 16-201.

[Notes of Decisions \(18\)](#)

Neb. Rev. St. § 16-201, NE ST § 16-201

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 2. General Powers

Neb.Rev.St. § 16-206

16-206. Dogs and other animals; regulation; license tax; enforcement

**Currentness**

A city of the first class may collect a license tax from the owners and harborers of dogs and other animals in an amount which shall be determined by the city council and enforce the license tax by appropriate penalties. Any licensing provision shall comply with [subsection \(2\) of section 54-603](#) for service animals. The city may cause the destruction of any dog or other animal for which the owner or harborer shall refuse or neglect to pay such license tax. The city may regulate, license, or prohibit the running at large of dogs and other animals and guard against injuries or annoyances therefrom and authorize the destruction of such dogs and other animals when running at large contrary to any ordinance.

**Credits**

Laws 1901, ch. 18, § 48, X, p. 247; Laws 1959, ch. 59, § 1, p. 253; Laws 1971, LB 478, § 1; Laws 1981, LB 501, § 3; [Laws 1997, LB 814, § 4](#); [Laws 2008, LB 806, § 3](#), eff. July 18, 2008; [Laws 2016, LB 704, § 18](#), eff. July 21, 2016.

Codifications: R.S. 1913, § 4822; C.S. 1922, § 3990; C.S. 1929, § 16-207; R.S. 1943, § 16-206.

Neb. Rev. St. § 16-206, NE ST § 16-206

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 2. General Powers

Neb.Rev.St. § 16-225

16-225. Police; regulation; penalties; power to prescribe

**Currentness**

A city of the first class may regulate its police force, establish and support a night watch, impose fines, forfeitures, confinement, and penalties for the breach of any ordinance, and for recovery and collection of such fines, forfeitures, and penalties. In default of payment, it may provide for confinement in the city or county jail or other place of confinement as may be provided by ordinance or as provided under [section 16-252](#).

**Credits**

Laws 1901, ch. 18, § 48, XXXII, p. 254; Laws 1965, ch. 47, § 1, p. 247; [Laws 2016, LB 704, § 29](#), eff. July 21, 2016.

Codifications: R.S. 1913, § 4841; C.S. 1922, § 4009; C.S. 1929, § 16-226; R.S. 1943, § 16-225.

Neb. Rev. St. § 16-225, NE ST § 16-225

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 2. General Powers

Neb.Rev.St. § 16-235

16-235. Animals and fowl; running at large; regulation

[Currentness](#)

A city of the first class may regulate or prohibit the running at large of cattle, hogs, horses, mules, sheep, goats, dogs and other animals, chickens, ducks, geese and other fowls, and cause such as may be running at large to be impounded and sold to discharge the costs and penalties provided for the violation of such prohibitions, and the fees and expenses of impounding and keeping the same, and of such sale.

**Credits**

Laws 1901, ch. 18, § 48, XLI, p. 257; Laws 1907, ch. 13, § 1, p. 111.

Codifications: R.S. 1913, § 4851; C.S. 1922, § 4019; C.S. 1929, § 16-236.

Neb. Rev. St. § 16-235, NE ST § 16-235

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 2. General Powers

Neb.Rev.St. § 16-236

16-236. Pounds; erection; keepers

**Currentness**

A city of the first class may provide for the erection of all necessary pens, pounds, and buildings for the use of the city, within the city limits or within its extraterritorial zoning jurisdiction, appoint and compensate keepers thereof, and establish and enforce rules governing the same.

**Credits**

Laws 1901, ch. 18, § 48, XLII, p. 257; [Laws 2016, LB 704, § 37](#), eff. July 21, 2016.

Codifications: R.S. 1913, § 4852; C.S. 1922, § 4020; C.S. 1929, § 16-237.

Neb. Rev. St. § 16-236, NE ST § 16-236

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 2. General Powers

Neb.Rev.St. § 16-237

16-237. Property; sale at auction; regulation

[Currentness](#)

A city of the first class by ordinance may regulate, license, or prohibit the sale of domestic animals or of goods, wares, and merchandise at public auction on the streets, alleys, highways, or any public grounds within the city; and regulate or license the auctioneering of goods, wares, domestic animals, and merchandise. If the applicant is an individual, an application for a license shall include the applicant's social security number.

**Credits**

Laws 1901, ch. 18, § 48, XLIII, p. 257; [Laws 1997, LB 752, § 75](#).

Codifications: R.S. 1913, § 4853; C.S. 1922, § 4021; C.S. 1929, § 16-238; R.S. 1943, § 16-237.

[Notes of Decisions \(6\)](#)

Neb. Rev. St. § 16-237, NE ST § 16-237

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 3. Officers, Elections, Employees

Neb.Rev.St. § 16-304

16-304. City council; members; bond or insurance; payment of premium; amount; conditions

Effective: September 1, 2019

[Currentness](#)

Each city council member of a city of the first class, before entering upon the duties of his or her office, shall be required to give bond or evidence of equivalent insurance to the city. The bond shall be with two or more good and sufficient sureties or some responsible surety company. If by two sureties, they shall each justify that he or she is worth at least two thousand dollars over and above all debts and exemptions. Such bonds or evidence of equivalent insurance shall be in the sum of one thousand dollars, shall be conditioned for the faithful discharge of the duties of the city council member giving such bond or insurance, and shall be further conditioned that if the city council member shall vote for any expenditure or appropriation of money or creation of any liability in excess of the amount allowed by law, such city council member, and the sureties signing such bond, shall be liable thereon. The bond shall be filed with the city clerk and approved by the mayor, and upon the approval, the city may pay the premium for such bond. Any liability sought to be incurred, or debt created in excess of the amount limited or authorized by law, shall be taken and held by every court of the state as the joint and several liability and obligation of the city council member voting for and the mayor approving such liability, obligation, or debt, and not the debt, liability, or obligation of the city. Voting for or approving of such liability, obligation, or debt shall be conclusive evidence of malfeasance in office for which such city council member or mayor may be removed from office.

**Credits**

Laws 1901, ch. 18, § 12, p. 232; Laws 1903, ch. 19, § 1, p. 232; Laws 1907, ch. 13, § 1, p. 106; Laws 1915, ch. 85, § 1, p. 223; Laws 1923, ch. 67, § 2, p. 202; Laws 1965, ch. 49, § 1, p. 250; Laws 1979, LB 80, § 23; [Laws 2007, LB 347, § 9](#); [Laws 2016, LB 704, § 50](#), eff. July 21, 2016; [Laws 2019, LB 194, § 4](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4872; C.S. 1922, § 4040; C.S. 1929, § 16-302; R.S. 1943, § 16-304.

Neb. Rev. St. § 16-304, NE ST § 16-304

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 3. Officers, Elections, Employees

Neb.Rev.St. § 16-323

16-323. Chief of police; police officers; powers and duties

Effective: September 1, 2019

[Currentness](#)

The chief of police of a city of the first class shall have the immediate superintendence of the police. He or she and the police officers shall have the power and the duty to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as a county sheriff and to keep such offenders in the city prison or other place to prevent their escape until a trial or examination may be had before the proper officer. The chief of police and police officers shall have the same power as the county sheriff in relation to all criminal matters arising out of a violation of a city ordinance and all process issued by the county court in connection with a violation of a city ordinance.

**Credits**

Laws 1901, ch. 18, § 30, p. 238; Laws 1972, LB 1032, § 103; Laws 1979, LB 80, § 26; Laws 1988, LB 1030, § 4; [Laws 2016, LB 704, § 65](#), eff. July 21, 2016; [Laws 2019, LB 194, § 18](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4889; C.S. 1922, § 4057; C.S. 1929, § 16-319; R.S. 1943, § 16-323.

[Notes of Decisions \(4\)](#)

Neb. Rev. St. § 16-323, NE ST § 16-323

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 4. Council and Proceedings

Neb.Rev.St. § 16-402

16-402. City council; president; acting president; duties

Effective: September 1, 2019

[Currentness](#)

The city council of a city of the first class shall elect one of the city council members as president of the city council, and he or she shall preside at all meetings of the city council in the absence of the mayor. In the absence of the president, the city council members shall elect one of their own body to occupy the place temporarily, who shall be styled acting president of the city council. The president and acting president, when occupying the place of mayor, shall have the same privileges as other members of the city council, and all acts of the president or acting president while so acting shall be as binding upon the city council and upon the city as if done by the mayor.

**Credits**

Laws 1901, ch. 18, § 53, p. 259; Laws 1987, LB 652, § 2; [Laws 2016, LB 704, § 71](#), eff. July 21, 2016; [Laws 2019, LB 194, § 23](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4895; C.S. 1922, § 4063; C.S. 1929, § 16-402; R.S. 1943, § 16-402.

Neb. Rev. St. § 16-402, NE ST § 16-402

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 4. Council and Proceedings

Neb.Rev.St. § 16-403

16-403. City council; ordinances; passage; proof; publication

Effective: September 1, 2019

[Currentness](#)

All ordinances of a city of the first class shall be passed pursuant to such rules and regulations as the city council may provide, and all such ordinances may be proved by the certificate of the city clerk under the seal of the city. When printed or published in book or pamphlet form and purporting to be published by authority of the city, such ordinances shall be read and received in evidence in all courts and places without further proof. The passage, approval, and publication or posting of such ordinance shall be sufficiently proved by a certificate under the seal of the city from the city clerk showing that such ordinance was passed and approved, and when and in what paper the same was published, and when and by whom and where the same was posted. When ordinances are published in book or pamphlet form, purporting to be published by authority of the city council, the same need not be otherwise published and such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinances, as of the dates mentioned in such book or pamphlet, in all courts without further proof.

**Credits**

Laws 1901, ch. 18, § 46, p. 244; [Laws 2016, LB 704, § 72](#), eff. July 21, 2016; [Laws 2019, LB 194, § 24](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4896; C.S. 1922, § 4064; C.S. 1929, § 16-403.

[Notes of Decisions \(6\)](#)

Neb. Rev. St. § 16-403, NE ST § 16-403

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 4. Council and Proceedings

Neb.Rev.St. § 16-404

16-404. City council; ordinances, resolutions, or orders; procedure for passage; vote of mayor, when; amendments; revision ordinances

Effective: September 1, 2019

[Currentness](#)

(1) All ordinances and resolutions or orders for the appropriation or payment of money in a city of the first class shall require for their passage or adoption the concurrence of a majority of all members elected to the city council. The mayor may vote on any such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the city council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council.

(2) Ordinances of a general or permanent nature in a city of the first class shall be read by title on three different days unless three-fourths of the city council members vote to suspend this requirement, except that in a city having a commission plan of government such requirement may be suspended by a three-fifths majority vote. Regardless of the form of government, such requirement shall not be suspended for any ordinance for the annexation of territory or the redrawing of boundaries for city council election districts or wards. In case such requirement is suspended, the ordinances shall be read by title or number and then moved for final passage. Three-fourths of the city council members may require a reading of any such ordinance in full before enactment under either procedure set out in this section, except that in a city having a commission plan of government, such reading may be required by a three-fifths majority vote.

(3) Ordinances in a city of the first class shall contain no subject which is not clearly expressed in the title, and, except as provided in [section 19-915](#), no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that:

(a) For an ordinance revising all the ordinances of a city of the first class, the only title necessary shall be An ordinance of the city of ....., revising all the ordinances of the city. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title; and

(b) For an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or enacted in sections and chapters or otherwise by a single ordinance without other title.

**Credits**

Laws 1901, ch. 18, § 37, p. 240; Laws 1903, ch. 19, § 5, p. 235; Laws 1961, ch. 43, § 1, p. 174; Laws 1969, ch. 108, § 2, p. 510; Laws 1972, LB 1235, § 1; Laws 1975, LB 172, § 1; Laws 1980, LB 662, § 2; Laws 1989, LB 790, § 2; [Laws 1990, LB 966, § 1](#); [Laws 1994, LB 630, § 2](#); [Laws 2003, LB 365, § 1](#); [Laws 2016, LB 704, § 73](#), eff. July 21, 2016; [Laws 2018, LB 865, § 3](#), eff. July 19, 2018; [Laws 2019, LB 194, § 25](#), eff. Sept. 1, 2019; [Laws 2019, LB 193, § 5](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4897; C.S. 1922, § 4065; C.S. 1929, § 16-404; R.S. 1943, § 16-404.

[Notes of Decisions \(9\)](#)

Neb. Rev. St. § 16-404, NE ST § 16-404

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 4. Council and Proceedings

Neb.Rev.St. § 16-405

16-405. City council; ordinances; style; publication; emergency ordinances

Effective: September 1, 2019

[Currentness](#)

The style of ordinances of a city of the first class shall be: “Be it ordained by the mayor and city council of the city of .....” and all ordinances of a general nature shall, within fifteen days after they are passed, be published in a legal newspaper in or of general circulation within the city, or in pamphlet form, to be distributed or sold, as may be provided by ordinance. Every ordinance fixing a penalty or forfeiture for its violation shall, before the ordinance takes effect, be published for at least one week in the manner prescribed in this section. In cases of riots, infectious diseases, or other impending danger, or any other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the mayor immediately upon its first publication as provided in this section.

**Credits**

Laws 1901, ch. 18, § 47, p. 245; Laws 1971, LB 282, § 1; [Laws 2016, LB 704, § 74](#), eff. July 21, 2016; [Laws 2019, LB 194, § 26](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4898; C.S. 1922, § 4066; C.S. 1929, § 16-405; R.S. 1943, § 16-405.

[Notes of Decisions \(6\)](#)

Neb. Rev. St. § 16-405, NE ST § 16-405

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 4. Council and Proceedings

Neb.Rev.St. § 16-406

16-406. City council; testimony; power to compel; oaths

Effective: September 1, 2019

[Currentness](#)

The city council of a city of the first class or any committee of the members thereof shall have power to compel the attendance of witnesses for the investigation of matters that may come before them. The president or acting president of the city council, or chairperson of such committee for the time being, may administer such requisite oaths. Such city council or committee shall have the same authority to compel the giving of testimony as is conferred on courts of justice.

**Credits**

Laws 1901, ch. 18, § 94, p. 296; [Laws 2016, LB 704, § 75](#), eff. July 21, 2016; [Laws 2019, LB 194, § 27](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4899; C.S. 1922, § 4067; C.S. 1929, § 16-406.

Neb. Rev. St. § 16-406, NE ST § 16-406

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 5. Contracts and Franchises

Neb.Rev.St. § 16-501

16-501. Contracts; appropriation a condition precedent

Effective: September 1, 2019

[Currentness](#)

No contract shall be made by the city council in a city of the first class or any committee or member thereof and no expense shall be incurred by any of the officers or departments of the city, whether the object of the expenditure shall have been ordered by the city council or not, unless an appropriation shall have been previously made concerning such expense, except as otherwise expressly provided by law.

**Credits**

Laws 1901, ch. 18, § 44, p. 243; [Laws 2016, LB 704, § 76](#), eff. July 21, 2016; [Laws 2019, LB 194, § 28](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4900; C.S. 1922, § 4068; C.S. 1929, § 16-501.

[Notes of Decisions \(2\)](#)

Neb. Rev. St. § 16-501, NE ST § 16-501

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West's Revised Statutes of Nebraska Annotated  
Chapter 16. Cities of the First Class  
Article 5. Contracts and Franchises

Neb.Rev.St. § 16-503

16-503. Contracts; concurrence of majority of city council required; vote of mayor; record

Effective: September 1, 2019

[Currentness](#)

On the passage or adoption of every resolution or order to enter into a contract, or accepting of work done under contract, by the mayor or city council of a city of the first class, the yeas and nays shall be called and entered upon the record. To pass or adopt any bylaw or ordinance or any such resolution or order, a concurrence of a majority of the whole number of the members elected to the city council shall be required. The mayor may vote on any such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the city council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each city council member to be readily seen by the public.

**Credits**

Laws 1901, ch. 18, § 34, p. 239; Laws 1961, ch. 43, § 2, p. 174; Laws 1975, LB 172, § 2; Laws 1978, LB 609, § 1; Laws 1980, LB 662, § 3; Laws 1988, LB 625, § 1; [Laws 2016, LB 704, § 78](#), eff. July 21, 2016; [Laws 2019, LB 194, § 30](#), eff. Sept. 1, 2019.

Codifications: R.S. 1913, § 4903; C.S. 1922, § 4071; C.S. 1929, § 16-503; R.S. 1943, § 16-503.

[Notes of Decisions \(3\)](#)

Neb. Rev. St. § 16-503, NE ST § 16-503

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1004

28-1004. Terms, defined

**Currentness**

As used in this section and [section 28-1005](#), unless the context otherwise requires:

- (1) Bearbaiting shall mean the pitting of any animal against a bear;
- (2) Cockfighting shall mean the pitting of a fowl against another fowl;
- (3) Dogfighting shall mean the pitting of a dog against another dog; and
- (4) Pitting shall mean bringing animals together in combat.

**Credits**

Laws 1988, LB 170, § 2.

Neb. Rev. St. § 28-1004, NE ST § 28-1004

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1005

28-1005. Dogfighting, cockfighting, bearbaiting, or pitting an animal against another; prohibited acts; penalty

[Currentness](#)

(1) No person shall knowingly:

- (a) Promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another;
- (b) Receive money for the admission of another person to a place kept for such purpose;
- (c) Own, use, train, sell, or possess an animal for such purpose; or
- (d) Permit any act as described in this subsection to occur on any premises owned or controlled by him or her.

(2) Any person violating subsection (1) of this section shall be guilty of a Class IIIA felony and shall also be subject to [section 28-1019](#).

(3) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in subsection (1) of this section. Any person who violates any provision of this subsection shall be guilty of a Class IIIA felony and shall also be subject to [section 28-1019](#).

**Credits**

Laws 1988, LB 170, § 3; [Laws 2003, LB 273, § 3](#); [Laws 2013, LB 329, § 1](#), eff. Sept. 6, 2013; [Laws 2015, LB 605, § 48](#), eff. Aug. 30, 2015.

Neb. Rev. St. § 28-1005, NE ST § 28-1005

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1005.01

28-1005.01. Ownership or possession of animal fighting paraphernalia; penalty

Currentness

(1) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of [section 28-1005](#).

(2)(a) For purposes of this section, except as provided in subdivision (b) of this subsection, animal fighting paraphernalia means equipment, products, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of the pitting of an animal against another as defined in [section 28-1004](#). Animal fighting paraphernalia includes, but is not limited to, the following:

(i) A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;

(ii) A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;

(iii) A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;

(iv) A fighting pit, which means a walled area designed to contain an animal fight;

(v) A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;

(vi) A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;

(vii) A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and

(viii) Any other instrument commonly used in the furtherance of pitting an animal against another.

(b) Animal fighting paraphernalia does not include equipment, products, or materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state.

(3) Any person violating subsection (1) of this section is guilty of a Class I misdemeanor and may also be subject to [section 28-1019](#).

**Credits**

[Laws 2010, LB 252, § 2](#), eff. July 15, 2010; [Laws 2013, LB 329, § 2](#), eff. Sept. 6, 2013.

Neb. Rev. St. § 28-1005.01, NE ST § 28-1005.01

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1006

28-1006. Investigation; arrest; seizure of property; reimbursement of expenses

Currentness

(1) It shall be the duty of the sheriff, a police officer, or the Nebraska State Patrol to make prompt investigation of and arrest for any violation of [section 28-1005](#) or [28-1005.01](#).

(2) Any equipment, device, or other property or things involved in any violation of [section 28-1005](#) or [28-1005.01](#) shall be subject to seizure, and disposition may be made in accordance with the method of disposition directed for contraband in [sections 29-818](#) and [29-820](#).

(3) Any animal involved in any violation of [section 28-1005](#) or [28-1005.01](#) shall be subject to seizure. Distribution or disposition shall be made as provided in [section 28-1012.01](#) and in such manner as the court may direct. The court may give preference to adoption alternatives through humane societies or comparable institutions and to the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) In addition to any other sentence given for a violation of [section 28-1005](#) or [28-1005.01](#), the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal, including adoption, of an animal involved in the violation of [section 28-1005](#) or [28-1005.01](#). Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

**Credits**

Laws 1988, LB 170, § 4; [Laws 1997, LB 551, § 1](#); [Laws 2002, LB 82, § 5](#); [Laws 2010, LB 252, § 3](#), eff. July 15, 2010; [Laws 2010, LB 712, § 11](#), eff. July 15, 2010; [Laws 2015, LB 360, § 1](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 28-1006, NE ST § 28-1006

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1007

28-1007. Sections, how construed

**Currentness**

Sections 28-1004 to 28-1006 shall not be construed to amend or in any manner change the authority of the Game and Parks Commission under the Game Law, to prohibit any conduct authorized or permitted in the Game Law, or to prohibit the training of animals for any purpose not prohibited by law.

**Credits**

Laws 1988, LB 170, § 5; [Laws 1998, LB 922, § 393](#); [Laws 2010, LB 252, § 4](#), eff. July 15, 2010.

Neb. Rev. St. § 28-1007, NE ST § 28-1007

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1008

28-1008. Terms, defined

Currentness

For purposes of sections 28-1008 to [28-1017](#), [28-1019](#), and [28-1020](#):

- (1) Abandon means to leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health;
- (2) Animal means any vertebrate member of the animal kingdom. Animal does not include an uncaptured wild creature or a livestock animal as defined in [section 54-902](#);
- (3) Cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal;
- (4) Cruelly neglect means to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;
- (5) Humane killing means the destruction of an animal by a method which causes the animal a minimum of pain and suffering;
- (6) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local animal control laws, rules, regulations, or ordinances. Law enforcement officer also includes a special investigator appointed as a deputy state sheriff as authorized pursuant to [section 81-201](#) while acting within the authority of the Director of Agriculture under the Commercial Dog and Cat Operator Inspection Act;
- (7) Mutilation means intentionally causing permanent injury, disfigurement, degradation of function, incapacitation, or imperfection to an animal. Mutilation does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices;
- (8) Owner or custodian means any person owning, keeping, possessing, harboring, or knowingly permitting an animal to remain on or about any premises owned or occupied by such person;

(9) Police animal means a horse or dog owned or controlled by the State of Nebraska or any county, city, or village for the purpose of assisting a law enforcement officer in the performance of his or her official enforcement duties;

(10) Repeated beating means intentional successive strikes to an animal by a person resulting in serious bodily injury or death to the animal;

(11) Serious injury or illness includes any injury or illness to any animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ; and

(12) Torture means intentionally subjecting an animal to extreme pain, suffering, or agony. Torture does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices.

#### **Credits**

Laws 1990, LB 50, § 1; [Laws 1995, LB 283, § 2](#); [Laws 2003, LB 273, § 4](#); [Laws 2006, LB 856, § 11](#); [Laws 2007, LB 227, § 1](#); [Laws 2008, LB 764, § 2](#), eff. July 18, 2008; [Laws 2008, LB 1055, § 2](#), eff. April 22, 2008; [Laws 2009, LB 494, § 1](#), eff. Aug. 30, 2009; [Laws 2010, LB 865, § 13](#), eff. July 15, 2010; [Laws 2012, LB 721, § 2](#), eff. July 19, 2012; [Laws 2015, LB 360, § 2](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 28-1008, NE ST § 28-1008

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Proposed Legislation

West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1009

28-1009. Abandonment; cruel neglect; harassment of a police animal; penalty

[Currentness](#)

(1) A person who intentionally, knowingly, or recklessly abandons or cruelly neglects an animal is guilty of a Class I misdemeanor unless the abandonment or cruel neglect results in serious injury or illness or death of the animal, in which case it is a Class IV felony.

(2)(a) Except as provided in subdivision (b) of this subsection, a person who cruelly mistreats an animal is guilty of a Class I misdemeanor for the first offense and a Class IIIA felony for any subsequent offense.

(b) A person who cruelly mistreats an animal is guilty of a Class IIIA felony if such cruel mistreatment involves the knowing and intentional torture, repeated beating, or mutilation of the animal.

(3) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. Harassment of a police animal is a Class IV misdemeanor unless the harassment is the proximate cause of the death of the police animal, in which case it is a Class IIIA felony.

(4) A person convicted of a Class I misdemeanor under this section may also be subject to [section 28-1019](#). A person convicted of a Class IIIA felony under this section shall also be subject to [section 28-1019](#).

**Credits**

Laws 1990, LB 50, § 2; [Laws 1995, LB 283, § 3](#); [Laws 2002, LB 82, § 6](#); [Laws 2003, LB 273, § 5](#); [Laws 2007, LB 227, § 2](#); [Laws 2013, LB 329, § 3](#), eff. Sept. 6, 2013; [Laws 2014, LB 674, § 1](#), eff. July 18, 2014; [Laws 2015, LB 605, § 49](#), eff. Aug. 30, 2015.

[Notes of Decisions \(2\)](#)

Neb. Rev. St. § 28-1009, NE ST § 28-1009

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1009.01

28-1009.01. Violence on a service animal; interference with a service animal; penalty

Effective: September 1, 2019

[Currentness](#)

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

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

(3) Evidence that the defendant initiated or continued conduct toward an animal 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 or hard of hearing, or physically limited person being served or assisted by the animal shall create a rebuttable presumption that the conduct of the defendant was initiated or continued intentionally.

(4) For purposes of this section:

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

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

(c) Hard of hearing person means a person who is unable to hear air conduction thresholds at an average of forty 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 twenty degrees.

(5) Violence on a service animal or interference with a service animal is a Class III misdemeanor.

**Credits**

[Laws 1997, LB 814, § 1](#); [Laws 2008, LB 806, § 11](#), eff. July 18, 2008; [Laws 2019, LB 248, § 5](#), eff. Sept. 1, 2019.

Neb. Rev. St. § 28-1009.01, NE ST § 28-1009.01

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Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1010

28-1010. Indecency with an animal; penalty

[Currentness](#)

A person commits indecency with an animal when such person subjects an animal to sexual penetration as defined in [section 28-318](#). Indecency with an animal is a Class III misdemeanor. A person convicted under this section may also be subject to [section 28-1019](#).

**Credits**

Laws 1977, LB 38, § 216; Laws 1978, LB 748, § 16; Laws 1990, LB 50, § 3; [Laws 2009, LB 97, § 16](#), eff. May 21, 2009; [Laws 2013, LB 329, § 4](#), eff. Sept. 6, 2013.

Codifications: [R.S. 1943, \(1989\), § 28-1003](#).

[Notes of Decisions \(1\)](#)

Neb. Rev. St. § 28-1010, NE ST § 28-1010

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1011

28-1011. Violations; liability for expenses

Currentness

(1) In addition to any other sentence given for a violation of [section 28-1009](#) or [28-1010](#), the sentencing court may order the defendant to reimburse a public or private agency for any unreimbursed expenses incurred in conjunction with the care, impoundment, seizure, or disposal of an animal involved in the violation of such section. Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

(2) Even if reimbursement for expenses is not ordered under subsection (1) of this section, the defendant shall be liable for all unreimbursed expenses incurred by a public or private agency in conjunction with the care, impoundment, seizure, or disposal of an animal. The expenses shall be a lien upon the animal.

**Credits**

Laws 1990, LB 50, § 5; [Laws 1997, LB 551, § 2](#); [Laws 2015, LB 360, § 3](#), eff. Dec. 1, 2015.

[Notes of Decisions \(1\)](#)

Neb. Rev. St. § 28-1011, NE ST § 28-1011

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1012

28-1012. Law enforcement officer; powers; immunity; seizure; court powers

[Currentness](#)

- (1) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.
- (2) A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner or custodian as prescribed in [sections 29-422 to 29-429](#).
- (3) Any equipment, device, or other property or things involved in a violation of [section 28-1009](#) or [28-1010](#) shall be subject to seizure, and distribution or disposition may be made in such manner as the court may direct. Any animal involved in a violation of [section 28-1009](#) or [28-1010](#) shall be subject to seizure. Distribution or disposition shall be made under [section 28-1012.01](#) as the court may direct.
- (4) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

**Credits**

Laws 1990, LB 50, § 4; [Laws 1997, LB 551, § 3](#); [Laws 2002, LB 82, § 7](#); [Laws 2010, LB 712, § 12](#), eff. July 15, 2010; [Laws 2015, LB 360, § 4](#), eff. Dec. 1, 2015.

[Notes of Decisions \(1\)](#)

Neb. Rev. St. § 28-1012, NE ST § 28-1012

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1012.01

28-1012.01. Animal seized; court powers; county attorney; duties; hearing; notice; animal abandoned or cruelly neglected or mistreated; bond or other security; appeal; section, how construed

Currentness

(1) Any animal seized under a search warrant or validly seized without a warrant may be kept on the property of the owner or custodian by the law enforcement officer seizing the animal. When a criminal complaint has been filed in connection with a seized animal, the court in which such complaint was filed shall have exclusive jurisdiction for disposition of the animal and to determine any rights therein, including questions respecting the title, possession, control, and disposition thereof as provided in this section.

(2) Within seven days after the date an animal has been seized pursuant to [section 28-1006](#) or [28-1012](#), the county attorney of the county where the animal was seized shall file an application with the court having appropriate jurisdiction for a hearing to determine the disposition and the cost for the care of the animal. Notice of such hearing shall be given to the owner or custodian from whom such animal was seized and to any holder of a lien or security interest of record in such animal specifying the date, time, and place of such hearing. Such notice shall be served by personal or residential service or by certified mail. If such notice cannot be served by such methods, service may be made by publication in the county where such animal was seized. Such publication shall be made after application and order of the court. The hearing shall be held as soon as practicable and not more than ten business days after the date of application for the hearing unless otherwise determined and ordered by the court.

(3) If the court finds that probable cause exists that an animal has been abandoned or cruelly neglected or mistreated, the court may:

(a) Order immediate forfeiture of the animal to the agency that took custody of the animal and authorize appropriate disposition of the animal including adoption, donation to a suitable shelter, humane destruction, or any other manner of disposition approved by the court. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year;

(b) Issue an order to the owner or custodian setting forth the conditions under which custody of the animal shall be returned to the owner or custodian from whom the animal was seized or to any other person claiming an interest in the animal. Such order may include any management actions deemed necessary and prudent by the court, including reducing the number of animals harbored or owned by the owner or custodian by humane destruction or forfeiture and securing necessary care, including veterinary care, sufficient for the maintenance of any remaining animals; or

(c) Order the owner or custodian from whom the animal was seized to post a bond or other security or to otherwise order payment in an amount that is sufficient to reimburse all reasonable expenses, as determined by the court, for the care of the animal including veterinary care incurred by the agency from the date of seizure and necessitated by the possession of the animal. Payments shall be for a succeeding thirty-day period with the first payment due on or before the tenth day following the hearing. Payments for each subsequent thirty-day period, if any, shall be due on or before the tenth day of such period. The bond or security shall be placed with, or payments ordered under this subdivision shall be paid to, the agency that took custody of the animal. The agency shall provide an accounting of expenses to the court when the animal is no longer in the custody of the agency or upon request by the court. The county attorney of the county where the animal was seized may apply to the court for a subsequent hearing under this section at any time. The hearing shall be held as soon as practicable and not more than ten business days after the date of application for the hearing unless otherwise determined and ordered by the court. When all expenses covered by the bond or security are exhausted and subsequent bond or security has not been posted, or if a person becomes delinquent in his or her payments for the expenses of the animal, the animal shall be forfeited to the agency.

(4) If custody of an animal is returned to the owner or custodian prior to seizure, any proceeds of a bond or security or any payment or portion of payment ordered under this section not used for the care of the animal during the time the animal was held by the agency shall be returned to the owner or custodian.

(5) Nothing in this section shall prevent the humane destruction of a seized animal at any time as determined necessary by a licensed veterinarian or as authorized by court order.

(6) An appeal may be filed within ten days after a hearing held under this section. Any person filing an appeal shall post a bond or security sufficient to pay reasonable costs of care of the animal for thirty days. Such bond or surety shall be required for each succeeding thirty-day period until the appeal is final.

(7) If the owner or custodian from whom the animal was seized is found not guilty in an associated criminal proceeding, all funds paid for the expenses of the animal remaining after the actual expenses incurred by the agency have been paid shall be returned to the owner or custodian.

(8) This section shall not preempt any ordinance of a city of the metropolitan or primary class.

#### **Credits**

[Laws 2015, LB 360, § 5](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 28-1012.01, NE ST § 28-1012.01

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1013

28-1013. Sections; exemptions

Currentness

Sections 28-1008 to 28-1017 and 28-1019 shall not apply to:

- (1) Care or treatment of an animal or other conduct by a veterinarian or veterinary technician licensed under the Veterinary Medicine and Surgery Practice Act that occurs within the scope of his or her employment, that occurs while acting in his or her professional capacity, or that conforms to commonly accepted veterinary practices;
- (2) Commonly accepted care or treatment of a police animal by a law enforcement officer in the normal course of his or her duties;
- (3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2010;
- (4) Commonly accepted practices of hunting, fishing, or trapping;
- (5) Humane killing of an animal by the owner or by his or her agent or a veterinarian upon the owner's request;
- (6) Use of reasonable force against an animal, other than a police animal, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;
- (7) Killing of house or garden pests; and
- (8) Commonly accepted animal training practices.

**Credits**

Laws 1990, LB 50, § 6; Laws 1995, LB 283, § 4; Laws 2003, LB 273, § 6; Laws 2007, LB 463, § 1127; Laws 2008, LB 764, § 5, eff. July 18, 2008; Laws 2008, LB 1055, § 4, eff. April 22, 2008; Laws 2009, LB 494, § 2, eff. Aug. 30, 2009; Laws 2010, LB 865, § 14, eff. July 15, 2010; Laws 2015, LB 360, § 6, eff. Dec. 1, 2015.

Neb. Rev. St. § 28-1013, NE ST § 28-1013

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1014

28-1014. Local regulation; authorized

**Currentness**

Any city, village, or county may adopt and promulgate rules, regulations, and ordinances which are not inconsistent with the provisions of [sections 28-1008 to 28-1017](#), [28-1019](#), and [28-1020](#) for the protection of the public, public health, and animals within its jurisdiction.

**Credits**

Laws 1990, LB 50, § 7; [Laws 2003, LB 273, § 7](#); [Laws 2008, LB 764, § 8](#), eff. July 18, 2008; [Laws 2008, LB 1055, § 5](#), eff. April 22, 2008; [Laws 2009, LB 494, § 3](#), eff. Aug. 30, 2009; [Laws 2015, LB 360, § 7](#), eff. Dec. 1, 2015.

[Notes of Decisions \(1\)](#)

Neb. Rev. St. § 28-1014, NE ST § 28-1014

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1015

28-1015. Ownership by child; applicability of penalties

**Currentness**

When an animal is owned by a minor child, the parent of such minor child with whom the child resides or legal guardian with whom the child resides shall be subject to the penalties provided under [sections 28-1008](#) to [28-1017](#), [28-1019](#), and [28-1020](#) if the animal is abandoned or cruelly neglected.

**Credits**

Laws 1990, LB 50, § 8; [Laws 2003, LB 273, § 8](#); [Laws 2008, LB 764, § 9](#), eff. July 18, 2008; [Laws 2008, LB 1055, § 6](#), eff. April 22, 2008; [Laws 2009, LB 494, § 4](#), eff. Aug. 30, 2009; [Laws 2015, LB 360, § 8](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 28-1015, NE ST § 28-1015

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1016

28-1016. Game and Parks Commission; Game Law; sections, how construed

**Currentness**

Nothing in [sections 28-1008](#) to [28-1017](#), [28-1019](#), and [28-1020](#) shall be construed as amending or changing the authority of the Game and Parks Commission as established in the Game Law or to prohibit any conduct authorized or permitted by such law.

**Credits**

Laws 1990, LB 50, § 9; [Laws 2003, LB 273, § 9](#); [Laws 2008, LB 764, § 10](#), eff. July 18, 2008; [Laws 2008, LB 1055, § 7](#), eff. April 22, 2008; [Laws 2009, LB 494, § 5](#), eff. Aug. 30, 2009; [Laws 2015, LB 360, § 9](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 28-1016, NE ST § 28-1016

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1017

28-1017. Animal abandonment, cruel neglect, or cruel mistreatment;  
report required by certain employees; violation; penalty

Currentness

(1) For purposes of this section:

(a) Reasonably suspects means a basis for reporting knowledge or a set of facts that would lead a person of ordinary care and prudence to believe and conscientiously entertain a strong suspicion that criminal activity is at hand or that a crime has been committed; and

(b) Employee means any employee of a governmental agency dealing with child or adult protective services, animal control, or animal abuse.

(2) Any employee, while acting in his or her professional capacity or within the scope of his or her employment, who observes or is involved in an incident which leads the employee to reasonably suspect that an animal has been abandoned, cruelly neglected, or cruelly mistreated shall report such to the entity or entities that investigate such reports in that jurisdiction.

(3) The report of an employee shall be made within two working days of acquiring the information concerning the animal by facsimile transmission of a written report presented in the form described in subsection (6) of this section or by telephone. When an immediate response is necessary to protect the health and safety of the animal or others, the report of an employee shall be made by telephone as soon as possible.

(4) Nothing in this section shall be construed to impose a duty to investigate observed or reasonably suspected animal abandonment, cruel neglect, or cruel mistreatment. Any person making a report under this section is immune from liability except for false statements of fact made with malicious intent.

(5) A report made by an employee pursuant to this section shall include:

(a) The reporter's name and title, business address, and telephone number;

(b) The name, if known, of the animal owner or custodian, whether a business or individual;

(c) A description of the animal or animals involved, person or persons involved, and location of the animal or animals and the premises; and

(d) The date, time, and a description of the observation or incident which led the reporter to reasonably suspect animal abandonment, cruel neglect, or cruel mistreatment and any other information the reporter believes may be relevant.

(6) A report made by an employee pursuant to this section may be made on preprinted forms prepared by the entity or entities that investigate reports of animal abandonment, cruel neglect, or cruel mistreatment in that jurisdiction. The form shall include space for the information required under subsection (5) of this section.

(7) When two or more employees jointly have observed or reasonably suspected animal abandonment, cruel neglect, or cruel mistreatment and there is agreement between or among them, a report may be made by one person by mutual agreement. Any such reporter who has knowledge that the person designated to report has failed to do so shall thereafter make the report.

(8) Any employee failing to report under this section shall be guilty of an infraction.

**Credits**

[Laws 2003, LB 273, § 1](#); [Laws 2009, LB 494, § 6](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 28-1017, NE ST § 28-1017

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1018

28-1018. Sale of puppy or kitten; prohibited acts; penalty

**Currentness**

(1) A person, other than an animal control facility, animal rescue, or animal shelter, who sells a puppy or kitten under eight weeks of age without its mother is guilty of a Class V misdemeanor.

(2) For purposes of this section:

(a) Animal control facility means a facility operated by the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals;

(b) Animal rescue means a person or group of persons who hold themselves out as an animal rescue, accept or solicit for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as defined in [section 54-626](#) as the primary means of housing dogs or cats; and

(c) Animal shelter means a facility used to house or contain dogs or cats and owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

**Credits**

[Laws 2003, LB 17, § 5](#); [Laws 2006, LB 856, § 12](#); [Laws 2010, LB 910, § 1](#), eff. July 15, 2010.

Neb. Rev. St. § 28-1018, NE ST § 28-1018

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1019

28-1019. Conviction; order prohibiting ownership, possession, or residing with animal; duration; violation; penalty; seizure of animal

**Currentness**

(1)(a) If a person is convicted of a Class IV felony under [section 28-1005](#) or [28-1009](#), the sentencing court shall order such person not to own, possess, or reside with any animal for at least five years after the date of conviction, but such time restriction shall not exceed fifteen years. Any person violating such court order shall be guilty of a Class I misdemeanor.

(b) If a person is convicted of a Class I misdemeanor under [section 28-1005.01](#) or [28-1009](#) or a Class III misdemeanor under [section 28-1010](#), the sentencing court may order such person not to own, possess, or reside with any animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Any person violating such court order shall be guilty of a Class IV misdemeanor.

(c) Any animal involved in a violation of a court order under subdivision (a) or (b) of this subsection shall be subject to seizure by law enforcement. Distribution or disposition shall be made under [section 28-1012.01](#).

(2) This section shall not apply to any person convicted under [section 28-1005](#), [28-1005.01](#), or [28-1009](#) if a licensed physician confirms in writing that ownership or possession of or residence with an animal is essential to the health of such person.

**Credits**

[Laws 2008, LB 1055, § 3](#), eff. April 22, 2008; [Laws 2010, LB 252, § 5](#), eff. July 15, 2010; [Laws 2010, LB 712, § 13](#), eff. July 15, 2010; [Laws 2014, LB 674, § 2](#), eff. July 18, 2014; [Laws 2015, LB 360, § 10](#), eff. Dec. 1, 2015.

**Notes of Decisions (1)**

Neb. Rev. St. § 28-1019, NE ST § 28-1019

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 28. Crimes and Punishments  
Article 10. Offenses Against Animals

Neb.Rev.St. § 28-1020

28-1020. Animal abandonment, cruel neglect, or cruel mistreatment;  
report required by animal health care professional; immunity from liability

**Currentness**

(1) Any animal health care professional, while acting in his or her professional capacity or within the scope of his or her employment, who observes or is involved in an incident which leads the animal health care professional to reasonably suspect that an animal has been abandoned, cruelly neglected, or cruelly mistreated, shall report such treatment to an entity that investigates such reports in the appropriate jurisdiction.

(2) Nothing in this section shall be construed to impose a duty to investigate observed or reasonably suspected abandonment, cruel neglect, or cruel mistreatment of an animal. Any person making a report under this section is immune from liability except for false statements of fact made with malicious intent.

(3) For purposes of this section, an animal health care professional means a licensed veterinarian as defined in [section 38-3310](#) or a licensed veterinary technician as defined in [section 38-3311](#).

**Credits**

[Laws 2009, LB 494, § 7](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 28-1020, NE ST § 28-1020

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-601

54-601. Dogs; personal property; owner liable for damages; exceptions

Currentness

(1) Dogs are hereby declared to be personal property for all intents and purposes, and, except as provided in subsection (2) of this section, the owner or owners of any dog or dogs shall be liable for any and all damages that may accrue (a) to any person, other than a trespasser, by reason of having been bitten by any such dog or dogs and (b) to any person, firm, or corporation by reason of such dog or dogs killing, wounding, injuring, worrying, or chasing any person or persons or any sheep or other domestic animals belonging to such person, firm, or corporation. Such damage may be recovered in any court having jurisdiction of the amount claimed.

(2)(a) A governmental agency or its employees using a dog in military or police work shall not be liable under subsection (1) of this section to a party to, participant in, or person reasonably suspected to be a party to or participant in the act that prompted the use of the dog in the military or police work if the officers of the governmental agency were complying with a written policy on the necessary and appropriate use of a dog for military or police work adopted by the governmental agency and if the damage occurred while the dog was responding to a harassing or provoking act or the damage was the result of a reasonable use of force while the dog or dogs were assisting an employee of the agency in any of the following:

- (i) The apprehension or holding of a suspect if the employee has a reasonable suspicion of the suspect's involvement in criminal activity;
- (ii) The investigation of a crime or possible crime;
- (iii) The execution of a warrant; or
- (iv) The defense of a peace officer or another person other than the suspect.

(b) For purposes of this subsection, harassing or provoking act means knowingly and intentionally attempting to interfere with, interfering with, teasing or harassing such dog in order to distract, or agitating or harming such dog.

**Credits**

Laws 1877, § 1, p. 156; Laws 1899, ch. 4, § 1, p. 54; Laws 1947, ch. 192, § 1, p. 629; Laws 1961, ch. 268, § 1, p. 786; [Laws 1992, LB 1011, § 1](#); [Laws 2009, LB 347, § 1](#), eff. Aug. 30, 2009.

Codifications: R.S. 1913, § 172; C.S. 1922, § 169; C.S. 1929, § 54-601; R.S. 1943, § 54-601.

[Notes of Decisions \(54\)](#)

Neb. Rev. St. § 54-601, NE ST § 54-601

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-602

54-602. Dogs owned by different persons; joint liability

[Currentness](#)

If two or more dogs owned by different persons shall kill, wound, chase or worry any sheep or other domestic animal, such persons shall be jointly and severally liable for all damage done by such dogs.

**Credits**

Laws 1877, § 2, p. 156.

Codifications: R.S. 1913, § 173; C.S. 1922, § 170; C.S. 1929, § 54-602.

[Notes of Decisions \(1\)](#)

Neb. Rev. St. § 54-602, NE ST § 54-602

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-603

54-603. Dogs; license tax; amount; service animal; license; county, city, or village; collect fee; disposition

**Currentness**

(1) Any county, city, or village shall have authority by ordinance or resolution to impose a license tax, in an amount which shall be determined by the appropriate governing body, on the owner or harbinger of any dog or dogs, to be paid under such regulations as shall be provided by such ordinance or resolutions.

(2) Every service animal shall be licensed as required by local ordinances or resolutions, but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a license tax as prescribed by local ordinances or resolutions.

(3) Any county, city, or village that imposes a license tax on the owner or harbinger of any cat or cats or any dog or dogs under this section shall, in addition to the license tax imposed by the licensing jurisdiction, collect from the licensee a fee of one dollar and twenty-five cents. The person designated by the licensing jurisdiction to collect and administer the license tax shall act as agent for the State of Nebraska in the collection of the fee. From each fee of one dollar and twenty-five cents collected, such person shall retain three cents and remit the balance to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. If the person collecting the fee is the licensing jurisdiction, the three cents shall be credited to the licensing jurisdiction's general fund. If the person collecting the fee is a private contractor, the three cents shall be credited to an account of the private contractor. The remittance to the State Treasurer shall be made at least annually at the conclusion of the licensing jurisdiction's fiscal year, except that any licensing jurisdiction or private contractor that collects fifty dollars or less of such fees during the fiscal year may remit the fees when the cumulative amount of fees collected reaches fifty dollars.

**Credits**

Laws 1877, § 3, p. 156; Laws 1976, LB 515, § 2; [Laws 1997, LB 814, § 7](#); [Laws 2008, LB 806, § 13](#), eff. July 18, 2008; [Laws 2010, LB 910, § 3](#), eff. July 15, 2010; [Laws 2015, LB 360, § 12](#), eff. Dec. 1, 2015.

Codifications: R.S. 1913, § 174; C.S. 1922, § 171; C.S. 1929, § 54-603; R.S. 1943, § 54-603.

**Notes of Decisions (1)**

Neb. Rev. St. § 54-603, NE ST § 54-603

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-604

54-604. Dogs; killing; when permitted

[Currentness](#)

Any person shall have the right to kill any dog found doing any damage as mentioned in [sections 54-601](#) and [54-602](#) to any sheep or domestic animal, or if he shall have just and reasonable ground to believe that such dog has been killing, wounding, chasing or worrying such sheep or animal; and no action shall be maintained for such killing.

**Credits**

Laws 1877, § 4, p. 156.

Codifications: R.S. 1913, § 175; C.S. 1922, § 172; C.S. 1929, § 54-604.

[Notes of Decisions \(7\)](#)

Neb. Rev. St. § 54-604, NE ST § 54-604

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-605

54-605. Dogs; collar required

[Currentness](#)

It shall be the duty of every owner or owners of any dog or dogs to securely place upon the neck of such dog or dogs a good and sufficient collar with a metallic plate thereon. The plate shall be plainly inscribed with the name of such owner.

**Credits**

Laws 1877, § 5, p. 157; Laws 1990, LB 50, § 12.

Codifications: R.S. 1913, § 176; C.S. 1922, § 173; C.S. 1929, § 54-605; R.S. 1943, § 54-605.

[Notes of Decisions \(2\)](#)

Neb. Rev. St. § 54-605, NE ST § 54-605

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-606

54-606. Dogs; collarless; who deemed owner

**Currentness**

Every person who shall harbor about his or her premises a collarless dog for the space of ten days shall be taken and held as the owner, and shall be liable for all damages which such dog shall commit.

**Credits**

Laws 1877, § 6, p. 157.

Codifications: R.S. 1913, § 177; C.S. 1922, § 174; C.S. 1929, § 54-606.

Neb. Rev. St. § 54-606, NE ST § 54-606

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-607

54-607. Dogs; running at large; penalty

**Currentness**

The owner of any dog running at large for ten days without a collar as required in [section 54-605](#) shall be fined an amount not to exceed twenty-five dollars.

**Credits**

Laws 1877, § 7, p. 157; [Laws 2008, LB 1055, § 8](#), eff. April 22, 2008.

Codifications: R.S. 1913, § 178; C.S. 1922, § 175; C.S. 1929, § 54-607.

**Notes of Decisions (3)**

Neb. Rev. St. § 54-607, NE ST § 54-607

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-608

54-608. Dogs in counties having a population of 80,000 inhabitants or more; responsibilities of owners

**Currentness**

In counties having a population of eighty thousand or more inhabitants and cities of the first class contained in such counties, it shall be unlawful for any person, firm, partnership, limited liability company, or corporation to have any dog which is owned, kept, harbored, or allowed to be habitually in or upon premises occupied by him, her, or it or under his, her, or its control to be at large.

**Credits**

Laws 1961, ch. 268, § 2, p. 787; Laws 1988, LB 630, § 1; [Laws 2008, LB 1055, § 9](#), eff. April 22, 2008.

Neb. Rev. St. § 54-608, NE ST § 54-608

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment 54-609. Repealed by Laws 2008, LB 1055, § 24, eff. April 22, 2008

[West's Revised Statutes of Nebraska Annotated](#)

[Chapter 54. Livestock](#)

[Article 6. Dogs and Cats](#)

[\(a\) Dogs](#)

Neb.Rev.St. § 54-609

54-609. Repealed by Laws 2008, LB 1055, § 24, eff. April 22, 2008

[Currentness](#)

Neb. Rev. St. § 54-609, NE ST § 54-609

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-610

54-610. Dogs in counties having a population of 80,000  
inhabitants or more; poundmaster; duties; filing complaint

[Currentness](#)

In counties having a population of eighty thousand or more inhabitants and cities of the first class contained in such counties, whenever complaints are made to the poundmaster or the person or corporation performing the duties of poundmaster that a dog is at large, it shall be the duty of such poundmaster, person, or corporation to investigate such complaint. If upon such investigation it appears that the complaint is founded upon facts, it shall be the duty of such poundmaster, person, or corporation to take such dog into custody and he, she, or it may file or cause to be filed a complaint in the county court against such person, firm, partnership, limited liability company, or corporation owning, keeping, or harboring such dog charging a violation of [section 54-601](#) or [54-608](#).

**Credits**

Laws 1961, ch. 268, § 4, p. 787; Laws 1988, LB 801, § 1; Laws 1988, LB 630, § 3; [Laws 1993, LB 121, § 338](#); [Laws 2008, LB 1055, § 10](#), eff. April 22, 2008.

Neb. Rev. St. § 54-610, NE ST § 54-610

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-611

54-611. Dogs in counties having a population of 80,000 inhabitants  
or more; convictions; disposition of offending dog; costs

[Currentness](#)

In counties having a population of eighty thousand or more inhabitants and cities of the first class contained in such counties, if upon final hearing the defendant is adjudged guilty of any violation of [section 54-601](#) or [54-608](#), the court may, in addition to the penalty provided in [section 54-613](#), order such disposition of the offending dog as may seem reasonable and proper. Disposition includes sterilization, seizure, permanent assignment of the dog to a court-approved animal shelter or animal rescue as such terms are defined in [section 28-1018](#), or destruction of the dog in an expeditious and humane manner. Reasonable costs for such disposition are the responsibility of the defendant.

**Credits**

Laws 1961, ch. 268, § 5, p. 787; Laws 1988, LB 801, § 2; Laws 1988, LB 630, § 4; [Laws 2008, LB 1055, § 11](#), eff. April 22, 2008; [Laws 2010, LB 910, § 4](#), eff. July 15, 2010.

[Notes of Decisions \(1\)](#)

Neb. Rev. St. § 54-611, NE ST § 54-611

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).



KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment 54-612. Repealed by Laws 1969, ch. 445, § 13

[West's Revised Statutes of Nebraska Annotated](#)

[Chapter 54. Livestock](#)

[Article 6. Dogs and Cats](#)

[\(a\) Dogs](#)

Neb.Rev.St. § 54-612

54-612. Repealed by Laws 1969, ch. 445, § 13

[Currentness](#)

Neb. Rev. St. § 54-612, NE ST § 54-612

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-613

54-613. Violations; penalties

**Currentness**

Any person in violation of [section 54-601](#) or [54-608](#) shall be deemed guilty of a Class IV misdemeanor.

**Credits**

Laws 1961, ch. 268, § 7, p. 788; Laws 1977, LB 39, § 20; Laws 1988, LB 801, § 3; Laws 1988, LB 630, § 5; [Laws 2008, LB 1055, § 12](#), eff. April 22, 2008.

Neb. Rev. St. § 54-613, NE ST § 54-613

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-614

54-614. County; license tax; regulate dogs running at large; appeal process

**Currentness**

(1) A county may collect a license tax in an amount which shall be determined by the appropriate governing body from the owners and harborers of dogs and may enforce such tax by appropriate penalties. A county may impound any dog if the owner or harborer shall refuse or neglect to pay such license tax. Any licensing provision shall comply with [subsection \(2\) of section 54-603](#) for service animals.

(2) A county may regulate or prohibit the running at large of dogs, adopt regulations to guard against injuries or annoyances therefrom, and authorize the destruction, adoption, or other disposition of such dogs when running at large contrary to the provisions of this subsection or any regulations adopted in accordance with this subsection. A county adopting regulations in accordance with this subsection shall provide for an appeal process with respect to such regulations.

**Credits**

Laws 1963, ch. 104, § 1, p. 429; Laws 1986, LB 1063, § 1; [Laws 1997, LB 814, § 8](#); [Laws 2008, LB 806, § 14](#), eff. July 18, 2008; [Laws 2008, LB 1055, § 13](#), eff. April 22, 2008.

Neb. Rev. St. § 54-614, NE ST § 54-614

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-615

54-615. County; impound dog; cost and penalties

**Currentness**

A county may impound any dog deemed to be running at large. The owner of such dog shall pay the reasonable cost and penalties provided for the violation of such prohibition, including the expense of impounding and keeping the dog.

**Credits**

Laws 1963, ch. 104, § 2, p. 429; [Laws 2008, LB 1055, § 14](#), eff. April 22, 2008.

Neb. Rev. St. § 54-615, NE ST § 54-615

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(a) Dogs

Neb.Rev.St. § 54-616

54-616. County; pounds; erection; keepers; compensation; rules and regulations

[Currentness](#)

A county may provide for the erection of any pounds needed within the county, appoint and compensate keepers thereof, and establish and enforce rules governing such pounds.

**Credits**

Laws 1963, ch. 104, § 3, p. 430; [Laws 2008, LB 1055, § 15](#), eff. April 22, 2008.

Neb. Rev. St. § 54-616, NE ST § 54-616

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-617

54-617. Dangerous dogs; terms, defined

Currentness

For purposes of sections 54-617 to [54-624](#):

(1) Animal control authority means an entity authorized to enforce the animal control laws of a county, city, or village or this state and includes any local law enforcement agency or other agency designated by a county, city, or village to enforce the animal control laws of such county, city, or village;

(2) Animal control officer means any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of sections 54-617 to [54-624](#) or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal;

(3)(a) Dangerous dog means a dog that, according to the records of an animal control authority: (i) Has killed a human being; (ii) has inflicted injury on a human being that requires medical treatment; (iii) has killed a domestic animal without provocation; or (iv) has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice from an animal control authority or an animal control officer of such determination, and the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

(b)(i) A dog shall not be defined as a dangerous dog under subdivision (3)(a)(ii) of this section, and the owner shall not be guilty under [section 54-622.01](#), if the individual was tormenting, abusing, or assaulting the dog at the time of the injury or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog.

(ii) A dog shall not be defined as a dangerous dog under subdivision (3)(a)(iv) of this section, and the owner shall not be guilty under [section 54-622.01](#), if the injury, damage, or threat was sustained by an individual who, at the time, was committing a willful trespass as defined in [section 20-203](#), [28-520](#), or [28-521](#), was committing any other tort upon the property of the owner of the dog, was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(iii) A dog shall not be defined as a dangerous dog under subdivision (3)(a) of this section if the dog is a police animal as defined in [section 28-1008](#);

(4) Domestic animal means a cat, a dog, or livestock. Livestock includes buffalo, deer, antelope, fowl, and any other animal in any zoo, wildlife park, refuge, wildlife area, or nature center intended to be on exhibit;

(5) Medical treatment means treatment administered by a physician or other licensed health care professional that results in sutures or surgery or treatment for one or more broken bones;

(6) Owner means any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog; and

(7) Potentially dangerous dog means (a) any dog that when unprovoked (i) inflicts an injury on a human being that does not require medical treatment, (ii) injures a domestic animal, or (iii) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack or (b) any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

#### **Credits**

Laws 1989, LB 208, § 1; [Laws 2008, LB 1055, § 16](#), eff. April 22, 2008; [Laws 2009, LB 494, § 8](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-617, NE ST § 54-617

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-618

54-618. Dangerous dogs; actions required; costs; limitations on transport; permanent relocation; procedure

**Currentness**

(1) A dangerous dog that has been declared as such shall be spayed or neutered and implanted with a microchip identification number by a licensed veterinarian within thirty days after such declaration. The cost of both procedures is the responsibility of the owner of the dangerous dog. Written proof of both procedures and the microchip identification number shall be provided to the animal control authority after the procedures are completed.

(2) No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash.

(3) Except as provided in subsection (4) of this section or for a reasonable veterinary purpose, no owner of a dangerous dog shall transport such dog or permit such dog to be transported to another county, city, or village in this state.

(4) An owner of a dangerous dog may transport such dog or permit such dog to be transported to another county, city, or village in this state for the purpose of permanent relocation of the owner if the owner has obtained written permission prior to such relocation from the animal control authority of the county, city, or village in which the owner resides and from the county, city, or village in which the owner will reside. Each animal control authority may grant such permission based upon a reasonable evaluation of both the owner and the dog, including if the owner has complied with the laws of this state and of the county, city, or village in which he or she resides with regard to dangerous dogs after the dog was declared dangerous. An animal control authority shall not grant permission under this subsection if the county, city, or village has an ordinance or resolution prohibiting the relocation of dangerous dogs. After the permanent relocation, the animal control authority of the county, city, or village in which the owner resides shall monitor the owner and such dog for a period of at least thirty days but not to exceed ninety days to ensure the owner's compliance with the laws of this state and of such county, city, or village with regard to dangerous dogs. Nothing in this subsection shall permit the rescindment of the declaration of dangerous dog.

**Credits**

Laws 1989, LB 208, § 2; [Laws 2008, LB 1055, § 17](#), eff. April 22, 2008.

Neb. Rev. St. § 54-618, NE ST § 54-618

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-619

54-619. Dangerous dogs; confinement required; warning signs

[Currentness](#)

(1) No person, firm, partnership, limited liability company, or corporation shall own, keep, or harbor or allow to be in or on any premises occupied by him, her, or it or under his, her, or its charge or control any dangerous dog without such dog being confined so as to protect the public from injury.

(2) While unattended on the owner's property, a dangerous dog shall be securely confined, 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. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least ten feet from any property line of the owner. The owner of a dangerous dog shall post warning signs on the property where the dog is kept that are clearly visible from all areas of public access and that inform persons that a dangerous dog is on the property. Each warning sign shall be no less than ten inches by twelve inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three inches high on a black background.

**Credits**

Laws 1989, LB 208, § 3; [Laws 2008, LB 1055, § 18](#), eff. April 22, 2008.

Neb. Rev. St. § 54-619, NE ST § 54-619

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-620

54-620. Dangerous dogs; confiscation; when; costs

**Currentness**

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of [sections 54-617](#) to [54-624](#). The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated [sections 54-617](#) to [54-624](#).

**Credits**

Laws 1989, LB 208, § 4; [Laws 2008, LB 1055, § 19](#), eff. April 22, 2008; [Laws 2009, LB 494, § 9](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-620, NE ST § 54-620

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-621

54-621. Dangerous dogs; disposal by court order

[Currentness](#)

In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner.

**Credits**

Laws 1989, LB 208, § 5.

Neb. Rev. St. § 54-621, NE ST § 54-621

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-622

54-622. Dangerous dogs; violation; penalty

**Currentness**

Except as provided in [section 54-622.01](#), any owner who violates [sections 54-617](#) to [54-621](#) shall be guilty of a Class IV misdemeanor.

**Credits**

Laws 1989, LB 208, § 6; [Laws 2009, LB 494, § 10](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-622, NE ST § 54-622

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-622.01

54-622.01. Dangerous dogs; serious bodily injury; penalty; defense

**Currentness**

(1) Any owner whose dangerous dog inflicts on a human being a serious bodily injury as defined in [section 28-109](#) is guilty of a Class I misdemeanor for the first offense and a Class IV felony for a second or subsequent offense, whether or not the same dangerous dog is involved.

(2) It is a defense to a violation of subsection (1) of this section that the dangerous dog was, at the time of the infliction of the serious bodily injury, in the custody of or under the direct control of a person other than the owner or the owner's immediate family.

**Credits**

[Laws 2009, LB 494, § 13](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-622.01, NE ST § 54-622.01

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-623

54-623. Dangerous dogs; violation; conviction; effect

Currentness

(1) Any owner convicted of a violation of [sections 54-617 to 54-624](#) shall not own a dangerous dog within ten years after such conviction. Any owner violating this subsection shall be guilty of a Class IIIA misdemeanor, and the dog shall be treated as provided in subsection (2) of this section.

(2) Except as provided in [section 54-622.01](#), if a dangerous dog of an owner with a prior conviction under [sections 54-617 to 54-624](#) attacks or bites a human being or domestic animal, the owner shall be guilty of a Class IIIA misdemeanor. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

**Credits**

Laws 1989, LB 208, § 7; [Laws 2008, LB 1055, § 20](#), eff. April 22, 2008; [Laws 2009, LB 494, § 11](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-623, NE ST § 54-623

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-623.01

54-623.01. County; designate animal control authority

**Currentness**

Each county shall designate an animal control authority that shall be responsible for enforcing [sections 54-617 to 54-624](#) and the laws of such county regarding dangerous dogs.

**Credits**

[Laws 2008, LB 1055, § 22](#), eff. April 22, 2008; [Laws 2009, LB 494, § 12](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-623.01, NE ST § 54-623.01

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(b) Dangerous Dogs

Neb.Rev.St. § 54-624

54-624. Dangerous dogs; local laws or ordinances

**Currentness**

Nothing in [sections 54-617 to 54-623.01](#) shall be construed to restrict or prohibit any governing board of any county, city, or village from establishing and enforcing laws or ordinances at least as stringent as the provisions of [sections 54-617 to 54-623.01](#).

**Credits**

Laws 1989, LB 208, § 8; [Laws 2008, LB 1055, § 21](#), eff. April 22, 2008; [Laws 2009, LB 494, § 14](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-624, NE ST § 54-624

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KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-625

54-625. Act, how cited

[Currentness](#)

Sections 54-625 to [54-643](#) shall be known and may be cited as the Commercial Dog and Cat Operator Inspection Act.

#### Credits

Laws 2000, LB 825, § 1; Laws 2003, LB 274, § 1; Laws 2006, LB 856, § 13; Laws 2007, LB 12, § 1; Laws 2009, LB 241, § 1, eff. Aug. 30, 2009; Laws 2012, LB 427, § 1, eff. Oct. 1, 2012; Laws 2015, LB 360, § 13, eff. Dec. 1, 2015.

#### [Notes of Decisions \(1\)](#)

Neb. Rev. St. § 54-625, NE ST § 54-625

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-626

54-626. Terms, defined

Currentness

For purposes of the Commercial Dog and Cat Operator Inspection Act:

- (1) Animal control facility means a facility operated by or under contract with the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals;
- (2) Animal rescue means a person or group of persons who hold themselves out as an animal rescue, accept or solicit for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as the primary means of housing dogs or cats;
- (3) Animal shelter means a facility used to house or contain dogs or cats and owned, operated, or maintained by an incorporated humane society, an animal welfare society, a society for the prevention of cruelty to animals, or another nonprofit organization devoted to the welfare, protection, and humane treatment of such animals;
- (4) Boarding kennel means a facility which is primarily used to house or contain dogs or cats owned by persons other than the operator of such facility. The primary function of a boarding kennel is to temporarily harbor dogs or cats when the owner of the dogs or cats is unable to do so or to provide training, grooming, or other nonveterinary service for consideration before returning the dogs or cats to the owner. A facility which provides such training, grooming, or other nonveterinary service is not a boarding kennel for the purposes of the act unless dogs or cats owned by persons other than the operator of such facility are housed at such facility overnight. Veterinary clinics, animal control facilities, animal rescues, and nonprofit animal shelters are not boarding kennels for the purposes of the act;
- (5) Breeding dog means any sexually intact male or female dog six months of age or older owned or harbored by a commercial dog breeder;
- (6) Cat means any animal which is wholly or in part of the species *Felis domesticus*;
- (7) Commercial cat breeder means a person engaged in the business of breeding cats:
  - (a) Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer thirty-one or more cats in a twelve-month period beginning on April 1 of each year;

(b) Who owns or harbors four or more cats, intended for breeding, in a twelve-month period beginning on April 1 of each year;

(c) Whose cats produce a total of four or more litters within a twelve-month period beginning on April 1 of each year; or

(d) Who knowingly sells, exchanges, or leases cats for later retail sale or brokered trading;

(8) Commercial dog breeder means a person engaged in the business of breeding dogs:

(a) Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer thirty-one or more dogs in a twelve-month period beginning on April 1 of each year;

(b) Who owns or harbors four or more dogs, intended for breeding, in a twelve-month period beginning on April 1 of each year;

(c) Whose dogs produce a total of four or more litters within a twelve-month period beginning on April 1 of each year; or

(d) Who knowingly sells, exchanges, or leases dogs for later retail sale or brokered trading;

(9) Dealer means any person who is not a commercial dog or cat breeder or a pet shop but is engaged in the business of buying for resale or selling or exchanging dogs or cats as a principal or agent or who claims to be so engaged. A person who purchases, sells, exchanges, or leases thirty or fewer dogs or cats in a twelve-month period is not a dealer;

(10) Department means the Bureau of Animal Industry of the Department of Agriculture with the State Veterinarian in charge, subordinate only to the director;

(11) Director means the Director of Agriculture or his or her designated employee;

(12) Dog means any animal which is wholly or in part of the species *Canis familiaris*;

(13) Foster home means any person who provides temporary housing for twenty or fewer dogs or cats that are six months of age or older in any twelve-month period and is affiliated with a person operating as an animal rescue that uses foster homes as its primary housing of dogs or cats. To be considered a foster home, a person shall not participate in the acquisition of the dogs or cats for which temporary care is provided. Any foster home which houses more than twenty dogs or cats that are six months of age or older in any twelve-month period or who participates in the acquisition of dogs or cats shall be licensed as an animal rescue;

(14) Harbor means:

(a) Providing shelter or housing for a dog or cat regulated under the act; or

(b) Maintaining the care, supervision, or control of a dog or cat regulated under the act;

(15) Housing facility means any room, building, or areas used to contain a primary enclosure;

(16) Inspector means any person who is employed by the department and who is authorized to perform inspections pursuant to the act;

(17) Licensee means a person who has qualified for and received a license from the department pursuant to the act;

(18) Normal business hours means daily between 7 a.m. and 7 p.m. unless an applicant, a licensee, or any other person the department has reasonable cause to believe is required by the act to be licensed provides in writing to the department a description of his or her own normal business hours which reasonably allows the department to make inspections;

(19) Operator means a person performing the activities of an animal control facility, an animal rescue, an animal shelter, a boarding kennel, a commercial cat breeder, a commercial dog breeder, a dealer, or a pet shop;

(20) Pet animal means an animal kept as a household pet for the purpose of companionship, which includes, but is not limited to, dogs, cats, birds, fish, rabbits, rodents, amphibians, and reptiles;

(21) Pet shop means a retail establishment which sells pet animals and related supplies;

(22) Premises means all public or private buildings, vehicles, equipment, containers, kennels, pens, and cages used by an operator and the public or private ground upon which an operator's facility is located if such buildings, vehicles, equipment, containers, kennels, pens, cages, or ground are used by the owner or operator in the usual course of business;

(23) Primary enclosure means any structure used to immediately restrict a dog or cat to a limited amount of space, such as a room, pen, cage, or compartment;

(24) Secretary of Agriculture means the Secretary of Agriculture of the United States Department of Agriculture;

(25) Significant threat to the health or safety of dogs or cats means:

(a) Not providing shelter or protection from extreme weather resulting in life-threatening conditions predisposing to hyperthermia or hypothermia in dogs or cats that are not acclimated to the temperature;

(b) Acute injuries involving potentially life-threatening medical emergencies in which the owner refuses to seek immediate veterinary care;

(c) Not providing food or water resulting in conditions of potential starvation or severe dehydration;

(d) Egregious human abuse such as trauma from beating, torturing, mutilating, burning, or scalding; or

(e) Failing to maintain sanitation resulting in egregious situations where a dog or cat cannot avoid walking, lying, or standing in feces;

(26) Stop-movement order means a directive preventing the movement of any dog or cat onto or from the premises; and

(27) Unaltered means any male or female dog or cat which has not been neutered or spayed or otherwise rendered incapable of reproduction.

**Credits**

[Laws 2000, LB 825, § 2](#); [Laws 2003, LB 233, § 1](#); [Laws 2003, LB 274, § 2](#); [Laws 2004, LB 1002, § 1](#); [Laws 2009, LB 241, § 2](#), eff. Aug. 30, 2009; [Laws 2010, LB 910, § 5](#), eff. July 15, 2010; [Laws 2012, LB 427, § 2](#), eff. Oct. 1, 2012; [Laws 2015, LB 360, § 14](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 54-626, NE ST § 54-626

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-627

54-627. License requirements; fees; premises available for inspection

Currentness

(1) A person shall not operate as a commercial dog or cat breeder, a dealer, a boarding kennel, an animal control facility, an animal shelter, an animal rescue, or a pet shop unless the person obtains the appropriate license. A pet shop shall only be subject to the Commercial Dog and Cat Operator Inspection Act and the rules and regulations adopted and promulgated pursuant thereto in any area or areas of the establishment used for the keeping and selling of pet animals. If a facility listed in this subsection is not located at the owner's residence, the name and address of the owner shall be posted on the premises.

(2) An applicant for a license shall submit an application for the appropriate license to the department, on a form prescribed by the department, together with a one-time license fee of one hundred twenty-five dollars. Such fee is nonreturnable. Any license issued on or before November 30, 2015, shall remain valid after expiration unless it lapses pursuant to this section, is revoked pursuant to [section 54-631](#), or is voluntarily surrendered. Upon receipt of an application and the license fee and upon completion of a qualifying inspection, the appropriate license may be issued by the department. The department may enter the premises of any applicant for a license to determine if the applicant meets the requirements for licensure under the act. If an applicant does not at the time of inspection harbor any dogs or cats, the inspection shall be of the applicant's records and the planned housing facilities. Such license shall not be transferable to another person or location and shall lapse automatically upon a change of ownership or location.

(3)(a) In addition to the license fee required in subsection (2) of this section, an annual fee shall also be charged. Except as otherwise provided in this subsection, the annual fee shall be determined according to the following fee schedule based upon the daily average number of dogs or cats harbored by the licensee over the previous twelve-month period:

- (i) Ten or fewer dogs or cats, one hundred seventy-five dollars;
- (ii) Eleven to fifty dogs or cats, two hundred twenty-five dollars;
- (iii) Fifty-one to one hundred dogs or cats, two hundred seventy-five dollars;
- (iv) One hundred one to one hundred fifty dogs or cats, three hundred twenty-five dollars;
- (v) One hundred fifty-one to two hundred dogs or cats, three hundred seventy-five dollars;

- (vi) Two hundred one to two hundred fifty dogs or cats, four hundred twenty-five dollars;
  - (vii) Two hundred fifty-one to three hundred dogs or cats, four hundred seventy-five dollars;
  - (viii) Three hundred one to three hundred fifty dogs or cats, five hundred twenty-five dollars;
  - (ix) Three hundred fifty-one to four hundred dogs or cats, five hundred seventy-five dollars;
  - (x) Four hundred one to four hundred fifty dogs or cats, six hundred twenty-five dollars;
  - (xi) Four hundred fifty-one to five hundred dogs or cats, six hundred seventy-five dollars; and
  - (xii) More than five hundred dogs or cats, two thousand one hundred dollars.
- (b) If a person operates with more than one type of license at the same location, the person shall pay only one annual fee based on the primary licensed activity occurring at that location as determined by the number of dogs or cats affected by the licensed activity.
- (c) The annual fee for a licensee that does not own or harbor dogs or cats shall be one hundred fifty dollars.
- (d) The annual fee for an animal rescue shall be one hundred fifty dollars.
- (e) The annual fee for a commercial dog or cat breeder shall be determined according to the fee schedule set forth in subdivision (a) of this subsection based upon the total number of breeding dogs or cats owned or harbored by the commercial breeder over the previous twelve-month period.
- (f) In addition to the fee as prescribed in the fee schedule set forth in subdivision (a) of this subsection, the annual fee for a commercial dog or cat breeder, pet shop, dealer, or boarding kennel shall include a fee of two dollars times the daily average number of dogs or cats owned or harbored by the licensee over the previous twelve-month period numbering more than ten dogs or cats subject to subdivision (g) of this subsection.
- (g) The fees charged under subdivision (a) of this subsection may be increased or decreased by rule and regulation as adopted and promulgated by the department, but the maximum fee that may be charged shall not result in a fee for any license category that exceeds the annual fee set forth in subdivision (a) of this subsection by more than one hundred dollars. The fee charged under subdivision (f) of this subsection may be increased or decreased by rule and regulation as adopted and promulgated by the department, but such fee shall not exceed three dollars times the number of dogs or cats harbored by the licensee over the previous twelve-month period numbering more than ten dogs or cats.

(4) A commercial dog or cat breeder, dealer, boarding kennel, or pet shop shall pay the annual fee to the department on or before April 1 of each year. An animal control facility, animal rescue, or animal shelter shall pay the annual fee to the department on or before October 1 of each year. Failure to pay the annual fee by the due date shall result in a late fee equal to twenty percent of the annual fee due and payable each month, not to exceed one hundred percent of such fee, in addition to the annual fee. The purpose of the late fee is to pay for the administrative costs associated with the collection of fees under this section. The assessment of the late fee shall not prohibit the director from taking any other action as provided in the act.

(5) An applicant, a licensee, or a person the department has reason to believe is an operator and required to obtain a license under this section shall make any applicable premises available for inspection pursuant to [section 54-628](#) during normal business hours.

(6) The state or any political subdivision of the state which contracts out its animal control duties to a facility not operated by the state or any political subdivision of the state may be exempted from the licensing requirements of this section if such facility is licensed as an animal control facility, animal rescue, or animal shelter for the full term of the contract with the state or its political subdivision.

(7) Any fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund.

**Credits**

[Laws 2000, LB 825, § 3](#); [Laws 2003, LB 233, § 2](#); [Laws 2003, LB 274, § 3](#); [Laws 2004, LB 1002, § 2](#); [Laws 2006, LB 856, § 14](#); [Laws 2007, LB 12, § 2](#); [Laws 2009, LB 241, § 3](#), eff. Aug. 30, 2009; [Laws 2010, LB 910, § 6](#), eff. July 15, 2010; [Laws 2012, LB 427, § 3](#), eff. Oct. 1, 2012; [Laws 2015, LB 360, § 15](#), eff. Dec. 1, 2015.

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-627.01

54-627.01. Licensees; maintain written veterinary care plan or written emergency veterinary care plan

**Currentness**

A dealer or pet shop licensed under [section 54-627](#) shall maintain a written veterinary care plan developed in conjunction with the attending veterinarian for the dealer or pet shop. An animal control facility, an animal rescue, an animal shelter, or a boarding kennel licensed under [section 54-627](#) shall maintain a written emergency veterinary care plan.

**Credits**

[Laws 2009, LB 241, § 4](#), eff. Aug. 30, 2009; [Laws 2010, LB 910, § 7](#), eff. July 15, 2010.

Neb. Rev. St. § 54-627.01, NE ST § 54-627.01

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-628

54-628. Inspection program; department; powers; reinspection fee; prohibited acts; penalty

Currentness

(1) The department shall inspect all licensees at least once in a twenty-four-month period to determine whether the licensee is in compliance with the Commercial Dog and Cat Operator Inspection Act.

(2) Any additional inspector or other field personnel employed by the department to carry out inspections pursuant to the act that are funded through General Fund appropriations to the department shall be available for temporary reassignment as needed to other activities and functions of the department in the event of a livestock disease emergency or any other threat to livestock or public health.

(3) When an inspection produces evidence of a violation of the act or the rules and regulations of the department, a copy of a written report of the inspection and violations shown thereon, prepared by the inspector, shall be given to the applicant, licensee, or person the department has reason to believe is an operator, together with written notice to comply within the time limit established by the department and set out in such notice. If the department performs a reinspection for the purpose of determining if an operator has complied within the time limit for compliance established pursuant to this subsection or has complied with [section 54-628.01](#) or if the inspector must return to the operator's location because the operator was not available within a reasonable time as required by subsection (4) of this section, the applicant, licensee, or person the department has reason to believe is an operator shall pay a reinspection fee of one hundred fifty dollars together with the mileage of the inspector at the rate provided in [section 81-1176](#). The purpose of the reinspection fee is to pay for the administrative costs associated with the additional inspection. Any fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The assessment of the reinspection fee shall not prohibit the director from taking any other action as provided in the act.

(4) The department, at its discretion, may make unannounced inspections of any applicant, licensee, or person the department has reason to believe is an operator during normal business hours. An applicant, a licensee, and any person the department has reason to believe is an operator shall provide the department, in writing, and keep updated if there is any change, a telephone number where the operator can be reached during normal business hours. The applicant, licensee, or person the department has reason to believe is an operator shall provide a person over the age of nineteen to be available at the operation for the purpose of allowing the department to perform an inspection.

(5) If deemed necessary under the act or any rule or regulation adopted and promulgated pursuant to the act, the department may, for purposes of inspection, enter, without being subject to any action for trespass or damages, the premises of any applicant, licensee, or person the department has reason to believe is an operator, during normal business hours and in a reasonable manner, including all premises in or upon which dogs or cats are housed, harbored, sold, exchanged, or leased or are suspected of being housed, harbored, sold, exchanged, or leased.

(6) Pursuant to an inspection under the act, the department may:

(a) Enter and have full access to all premises where dogs or cats regulated under the act are harbored or housed or are suspected of being harbored or housed;

(b) Access all records pertaining to dogs or cats regulated under the act or suspected of pertaining to such dogs or cats and examine and copy all records pertaining to compliance with the act and the rules or regulations adopted and promulgated under the act. The department shall have authority to gather evidence, including, but not limited to, photographs;

(c) Inspect or reinspect any vehicle or carrier transporting or holding dogs or cats that is in the state to determine compliance with the act or any rules or regulations adopted and promulgated under the act;

(d) Obtain an inspection warrant in the manner prescribed in [sections 29-830 to 29-835](#) if any person refuses to allow the department to conduct an inspection pursuant to the act; or

(e) Issue and enforce a written stop-movement order pursuant to [section 54-628.01](#).

(7) For purposes of this section, the private residence of any applicant, licensee, or person the department has reason to believe is an operator shall be available for purposes of inspection only if dogs or cats are housed in a primary enclosure within the residence, including a room in such residence, and only such portion of the residence that is used as a primary enclosure shall be open to an inspection pursuant to this section.

(8) An applicant, licensee, or person the department has reason to believe is an operator shall not seek to avoid inspection by hiding dogs or cats regulated under the act in a private residence, on someone else's property, or at any other location. An applicant, licensee, or person the department has reason to believe is an operator shall provide full and accurate information to the department regarding the location of all dogs or cats harbored by the operator.

(9) Any applicant, licensee, or person the department has reason to believe is an operator who intentionally refuses to answer the door, fails to be available as provided in subsection (4) of this section, fails to comply with subsection (8) of this section, or otherwise obstructs the department's attempt to perform an inspection shall be in violation of [section 54-634](#) and subject to an administrative fine or other proceedings as provided in [section 54-633](#) or [54-634](#).

#### **Credits**

[Laws 2000, LB 825, § 4](#); [Laws 2007, LB 12, § 3](#); [Laws 2009, LB 241, § 5](#), eff. Aug. 30, 2009; [Laws 2015, LB 360, § 16](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 54-628, NE ST § 54-628

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-628.01

54-628.01. Director; stop-movement order; issuance; contents;  
hearing; department; powers; costs; reinspection; hearing

**Currentness**

(1) The director may issue a stop-movement order if he or she has reasonable cause to believe that there exists (a) noncompliance with the Commercial Dog and Cat Operator Inspection Act or any rule or regulation adopted and promulgated pursuant to the act, including, but not limited to, unreasonable sanitation or housing conditions, failure to comply with standards for handling, care, treatment, or transportation for dogs or cats, operating without a license, or interfering with the department in the performance of its duties, or (b) any condition that, without medical attention, provision of shelter, facility maintenance or improvement, relocation of animals, or other management intervention, poses a significant threat to the health or safety of the dogs or cats owned or harbored by a violator.

(2) Such stop-movement order may require the violator to maintain the dogs or cats subject to the order at the existing location or other department-approved premises until such time as the director has issued a written release from the stop-movement order. The stop-movement order shall clearly advise the violator that he or she may request in writing a hearing before the director pursuant to [section 54-632](#). The order issued pursuant to this section shall be final unless modified or rescinded by the director pursuant to [section 54-632](#) at a hearing requested under this subsection.

(3) Pursuant to the stop-movement order, the department shall have the authority to enter the premises to inspect and determine if the dogs or cats subject to the order or the facilities used to house or transport such dogs or cats are kept and maintained in compliance with the requirements of the act and the rules and regulations adopted and promulgated pursuant to the act or if any management intervention imposed by the stop-movement order is being implemented to mitigate conditions posing a significant threat to the health or safety of dogs or cats harbored or owned by a violator. The department shall not be liable for any costs incurred by the violator or any personnel of the violator due to such departmental action or in enforcing the stop-movement order. The department shall be reimbursed by the violator for the actual costs incurred by the department in issuing and enforcing any stop-movement order.

(4) A stop-movement order shall include:

(a) A description of the nature of the violations of the act or any rule or regulation adopted and promulgated pursuant to the act;

(b) If applicable, a description of conditions that pose a significant threat to the health or safety of the dogs or cats owned or harbored by the violator;

- (c) The action necessary to bring the violator into compliance with the act and the rules and regulations adopted and promulgated pursuant to the act or, if applicable, to mitigate conditions posing a significant threat to the health and safety of the dogs or cats harbored or owned by the violator;
  - (d) Notice that if violations of the act or any rule or regulation or any conditions that pose a significant threat to the health or safety of the dogs or cats owned or harbored by the violator persist, the department may refer the matter to appropriate law enforcement for investigation and potential prosecution pursuant to Chapter 28, article 10; and
  - (e) The name, address, and telephone number of the violator who owns or harbors the dogs or cats subject to the order.
- (5) Before receipt of a written release, the person to whom the stop-movement order was issued shall:
- (a) Provide the department with an inventory of all dogs or cats on the premises at the time of the issuance of the order;
  - (b) Provide the department with the identification tag number, the tattoo number, the microchip number, or any other approved method of identification for each individual dog or cat;
  - (c) Notify the department within forty-eight hours of the death or euthanasia of any dog or cat subject to the order. Such notification shall include the dog's or cat's individual identification tag number, tattoo number, microchip number, or other approved identification;
  - (d) Notify the department within forty-eight hours of any dog or cat giving birth after the issuance of the order, including the size of the litter; and
  - (e) Maintain on the premises any dog or cat subject to the order, except that a dog or cat under one year of age under contract to an individual prior to the issuance of the order may be delivered to the individual pursuant to the contractual obligation. The violator shall provide to the department information identifying the dog or cat and the name, address, and telephone number of the individual purchasing the dog or cat. The department may contact the purchaser to ascertain the date of the purchase agreement to ensure that the dog or cat was sold prior to the stop-movement order and to determine that he or she did purchase such dog or cat. No additional dogs or cats shall be transferred onto the premises without written approval of the department.
- (6) The department shall reinspect the premises to determine compliance within ten business days after the initial inspection that resulted in the stop-movement order. At the time of reinspection pursuant to this subsection, if conditions that pose a significant threat to the health or safety of the dogs or cats harbored or owned by the violator or noncompliant conditions continue to exist, further reinspections shall be at the discretion of the department. The violator may request an immediate hearing with the director pursuant to any findings under this subsection.

#### **Credits**

[Laws 2009, LB 241, § 6](#), eff. Aug. 30, 2009; [Laws 2015, LB 360, § 17](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 54-628.01, NE ST § 54-628.01

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-628.02

54-628.02. Violation of act, rule or regulation, or order of director; proceedings authorized

**Currentness**

Whenever the director has reason to believe that any person has violated any provision of the Commercial Dog and Cat Operator Inspection Act, any rule or regulation adopted and promulgated pursuant to the act, or any order of the director, the director may issue a notice of hearing as provided in [section 54-632](#) requiring the person to appear before the director to (1) show cause why an order should not be entered requiring such person to cease and desist from the violation charged, (2) determine whether an administrative fine should be imposed or levied against the person pursuant to [subsection \(2\) of section 54-633](#), or (3) determine whether the person fails to qualify for a license pursuant to [section 54-630](#). Proceedings initiated pursuant to this section shall not preclude the department from pursuing other administrative, civil, or criminal actions according to law.

**Credits**

[Laws 2015, LB 360, § 18](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 54-628.02, NE ST § 54-628.02

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-629

54-629. Rules and regulations

**Currentness**

The department shall adopt and promulgate rules and regulations to carry out the Commercial Dog and Cat Operator Inspection Act. The rules and regulations may include, but are not limited to, factors to be considered when the department imposes an administrative fine, provisions governing record-keeping, veterinary care plans, emergency veterinary care plans, and other requirements for persons required to have a license, and any other matter deemed necessary by the department to carry out the act. The department shall use as a guideline for the humane handling, care, treatment, and transportation of dogs and cats the standards of the Animal and Plant Health Inspection Service of the United States Department of Agriculture as set out in [9 C.F.R. 3.1 to 3.19](#).

**Credits**

[Laws 2000, LB 825, § 5](#); [Laws 2007, LB 12, § 4](#); [Laws 2009, LB 241, § 7](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-629, NE ST § 54-629

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

End of Document

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-630

54-630. Application; denial; grounds; appeal

**Currentness**

(1) Before the department approves an application for a license, an inspector of the department shall inspect the operation of the applicant to determine whether the applicant qualifies to hold a license pursuant to the Commercial Dog and Cat Operator Inspection Act. Except as provided in subsection (2) of this section, an applicant who qualifies shall be issued a license.

(2) The department may deny an application for a license as a commercial dog or cat breeder, a dealer, a boarding kennel, an animal control facility, an animal shelter, an animal rescue, or a pet shop upon a finding that the applicant is unsuited to perform the obligations of a licensee. The applicant shall be determined unsuited to perform the obligations of a licensee if the department finds that the applicant has deliberately misrepresented or concealed any information provided on or with the application or any other information provided to the department under this section or that within the previous five years the applicant:

(a) Has been convicted of any law regarding the disposition or treatment of dogs or cats in any jurisdiction; or

(b) Has operated a breeder facility under a license or permit issued by any jurisdiction that has been revoked, suspended, or otherwise subject to a disciplinary proceeding brought by the licensing authority in that jurisdiction if such proceeding resulted in the applicant having voluntarily surrendered a license or permit to avoid disciplinary sanctions.

(3) In addition to the application, the department may require the applicant to provide additional documentation pertinent to the department's determination of the applicant's suitability to perform the duties of a licensee under the act.

(4) An applicant who is denied a license under this section shall be afforded the opportunity for a hearing before the director or the director's designee to present evidence that the applicant is qualified to hold a license pursuant to the act and the rules and regulations adopted and promulgated by the department and should be issued a license. All such hearings shall be in accordance with the Administrative Procedure Act.

**Credits**

Laws 2000, LB 825, § 6; Laws 2007, LB 12, § 5; Laws 2012, LB 427, § 4, eff. Oct. 1, 2012; Laws 2015, LB 360, § 19, eff. Dec. 1, 2015.

Neb. Rev. St. § 54-630, NE ST § 54-630

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-631

54-631. Licensee; duties; disciplinary actions

Currentness

(1) A licensee under the Commercial Dog and Cat Operator Inspection Act shall comply with the act, the rules and regulations, and any order of the director issued pursuant thereto. The licensee shall not interfere with the department in the performance of its duties.

(2) A licensee may be put on probation requiring such licensee to comply with the conditions set out in an order of probation issued by the director, may be ordered to cease and desist due to a failure to comply, or may be ordered to pay an administrative fine pursuant to [section 54-633](#) after:

(a) The director determines the licensee has not complied with subsection (1) of this section;

(b) The licensee is given written notice to comply and written notice of the right to a hearing to show cause why an order should not be issued; and

(c) The director finds that issuing an order is appropriate based on the hearing record or on the available information if the hearing is waived by the licensee.

(3) A license may be suspended after:

(a) The director determines the licensee has not complied with subsection (1) of this section;

(b) The licensee is given written notice to comply and written notice of the right to a hearing to show cause why the license should not be suspended; and

(c) The director finds that issuing an order suspending the license is appropriate based on the hearing record or on the available information if the hearing is waived by the licensee.

(4) A license may be immediately suspended and the director may order the operation of the licensee closed prior to hearing when:

- (a) The director determines that there is a significant threat to the health or safety of the dogs or cats harbored or owned by the licensee; and
- (b) The licensee receives written notice to comply and written notice of the right to a hearing to show cause why the suspension should not be sustained. Within fifteen days after the suspension, the licensee may request in writing a date for a hearing, and the director shall consider the interests of the licensee when the director establishes the date and time of the hearing, except that no hearing shall be held sooner than is reasonable under the circumstances. When a licensee does not request a hearing date within the fifteen-day period, the director shall establish a hearing date and notify the licensee of the date and time of such hearing.
- (5) A license may be revoked after:
- (a) The director determines the licensee has committed serious, repeated, or multiple violations of any of the requirements of subsection (1) of this section;
- (b) The licensee is given written notice to comply and written notice of the right to a hearing to show cause why the license should not be revoked; and
- (c) The director finds that issuing an order revoking the license is appropriate based on the hearing record or on the available information if the hearing is waived by the licensee.
- (6) The operation of any licensee which has been suspended shall close and remain closed until the license is reinstated. Any operation for which the license has been revoked shall close and remain closed until a new license is issued.
- (7) The director may terminate proceedings undertaken pursuant to this section at any time if the reasons for such proceedings no longer exist. A license which has been suspended may be reinstated, a person with a revoked license may be issued a new license, or a licensee may no longer be subject to an order of probation if the director determines the conditions which prompted the suspension, revocation, or probation no longer exist.
- (8) Proceedings undertaken pursuant to this section shall not preclude the department from seeking other civil or criminal actions.

**Credits**

[Laws 2000, LB 825, § 7](#); [Laws 2007, LB 12, § 6](#).

Neb. Rev. St. § 54-631, NE ST § 54-631

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-632

54-632. Notice or order; service requirements; hearing; appeal

Currentness

(1) Any notice or order provided for in the Commercial Dog and Cat Operator Inspection Act shall be properly served when it is personally served on the applicant, licensee, or violator or on the person authorized by the applicant or licensee to receive notices and orders of the department or when it is sent by certified or registered mail, return receipt requested, to the last-known address of the applicant, licensee, or violator or the person authorized to receive such notices and orders. A copy of the notice and the order shall be filed in the records of the department.

(2) A notice to comply with the act or the rules and regulations adopted and promulgated pursuant to the act shall set forth the acts or omissions with which the applicant, licensee, or violator is charged.

(3) A notice of the right to a hearing shall set forth the time and place of the hearing except as otherwise provided in subsection (4) of this section and [section 54-631](#). A notice of the right to such hearing shall include notice that such right to a hearing may be waived pursuant to subsection (6) of this section. A notice of the licensee's right to a hearing shall include notice to the licensee that the license may be subject to sanctions as provided in [section 54-631](#).

(4) A request for a hearing under [subsection \(2\) of section 54-628.01](#) shall request that the director set forth the time and place of the hearing. The director shall consider the interests of the violator in establishing the time and place of the hearing. Within three business days after receipt by the director of the hearing request, the director shall set forth the time and place of the hearing on the stop-movement order. A notice of the violator's right to such hearing shall include notice that such right to a hearing may be waived pursuant to subsection (6) of this section.

(5) The hearings provided for in the act shall be conducted by the director at the time and place he or she designates. The director shall make a final finding based on the complete hearing record and issue an order. If the director has suspended a license pursuant to [subsection \(4\) of section 54-631](#), the director shall sustain, modify, or rescind the order after the hearing. If the department has issued a stop-movement order under [section 54-628.01](#), the director may sustain, modify, or rescind the order after the hearing. All hearings shall be in accordance with the Administrative Procedure Act.

(6) An applicant, a licensee, or a violator waives the right to a hearing if such applicant, licensee, or violator does not attend the hearing at the time and place set forth in the notice described in subsection (3) or (4) of this section, without requesting that the director, at least two days before the designated time, change the time and place for the hearing, except that before an order of the director becomes final, the director may designate a different time and place for the hearing if the applicant, licensee, or violator shows the director that the applicant, licensee, or violator had a justifiable reason for not attending the hearing and not timely requesting a change of the time and place for such hearing. If the applicant, licensee, or violator waives the right to a hearing, the director shall make a final finding based upon the available information and issue an order. If the director has

suspended a license pursuant to [subsection \(4\) of section 54-631](#), the director may sustain, modify, or rescind the order after the hearing. If the department has issued a stop-movement order under [section 54-628.01](#), the director may sustain, modify, or rescind the order after the hearing.

(7) Any person aggrieved by the finding of the director has ten days after the entry of the director's order to request a new hearing if such person can show that a mistake of fact has been made which affected the director's determination. Any order of the director becomes final upon the expiration of ten days after its entry if no request for a new hearing is made.

**Credits**

[Laws 2000, LB 825, § 8](#); [Laws 2007, LB 12, § 7](#); [Laws 2009, LB 241, § 8](#), eff. Aug. 30, 2009; [Laws 2015, LB 360, § 20](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 54-632, NE ST § 54-632

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-633

54-633. Enforcement powers; administrative fine

**Currentness**

(1) In order to ensure compliance with the Commercial Dog and Cat Operator Inspection Act, the department may apply for a restraining order, temporary or permanent injunction, or mandatory injunction against any person violating or threatening to violate the act, the rules and regulations, or any order of the director issued pursuant thereto. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

The county attorney of the county in which such violations are occurring or about to occur shall, when notified of such violation or threatened violation, cause appropriate proceedings under this section to be instituted and pursued without delay.

(2) The department may impose an administrative fine of not more than five thousand dollars for any violation of the act or the rules and regulations adopted and promulgated under the act. Each violation of the act or such rules and regulations shall constitute a separate offense for purposes of this subsection.

**Credits**

Laws 2000, LB 825, § 9; Laws 2006, LB 856, § 15; Laws 2007, LB 12, § 8; Laws 2015, LB 360, § 21, eff. Dec. 1, 2015.

Neb. Rev. St. § 54-633, NE ST § 54-633

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-633.01

54-633.01. Special investigator; powers; referral to another law enforcement officer

**Currentness**

If the director has reason to believe that any alleged violation of the Commercial Dog and Cat Operator Inspection Act, any alleged violation of the rules and regulations of the department, any alleged violation of an order of the director, or any other existing condition posing a significant threat to the health or safety of the dogs or cats harbored or owned by an applicant or a licensee constitutes cruel neglect, abandonment, or cruel mistreatment pursuant to [section 28-1009](#), the director may direct a special investigator employed by the department as authorized pursuant to [section 81-201](#) to exercise the authorities of a law enforcement officer pursuant to [sections 28-1011](#) and [28-1012](#) with respect to the dogs or cats or may request any other law enforcement officer as defined in [section 28-1008](#) to inspect, care for, or impound the dogs or cats pursuant to [sections 28-1011](#) and [28-1012](#). Any assignment of a special investigator by the director or referral to another law enforcement officer pursuant to this section shall be in cooperation and coordination with appropriate law enforcement agencies, political subdivisions, animal shelters, humane societies, and other appropriate entities, public or private, to provide for the care, shelter, and disposition of animals impounded pursuant to this section.

**Credits**

[Laws 2015, LB 360, § 22](#), eff. Dec. 1, 2015.

Neb. Rev. St. § 54-633.01, NE ST § 54-633.01

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-634

54-634. Violation; penalty

**Currentness**

(1) It is unlawful for a person to operate without a valid license or operate while a license is revoked or suspended if a license is required by the Commercial Dog and Cat Operator Inspection Act. A licensee shall not operate in any manner which is not in conformity with the act or the rules and regulations adopted and promulgated pursuant thereto or interfere with the duties of the department or any final order of the director pursuant to the act.

(2) Any person who violates any provision of the act is guilty of a Class I misdemeanor.

**Credits**

Laws 2000, LB 825, § 10.

Neb. Rev. St. § 54-634, NE ST § 54-634

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-634.01

54-634.01. Prohibited acts

**Currentness**

It shall be a violation of the Commercial Dog and Cat Operator Inspection Act for any person to (1) deny access to any officer, agent, employee, or appointee of the department or offer any resistance to, thwart, or hinder such persons by misrepresentation or concealment, (2) violate a stop-movement order issued under [section 54-628.01](#), (3) fail to disclose all locations housing dogs or cats owned or controlled by such person, or (4) fail to pay any administrative fine levied pursuant to [section 54-633](#).

**Credits**

[Laws 2009, LB 241, § 9](#), eff. Aug. 30, 2009.

Neb. Rev. St. § 54-634.01, NE ST § 54-634.01

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-635

54-635. Commercial Dog and Cat Operator Inspection Program Cash Fund; created; use; investment

**Currentness**

The Commercial Dog and Cat Operator Inspection Program Cash Fund is created and shall consist of money appropriated by the Legislature, gifts, grants, costs, fees, or charges from any source, including federal, state, public, and private sources. The money shall be used to carry out the Commercial Dog and Cat Operator Inspection Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Credits**

Laws 2000, LB 825, § 11; Laws 2016, LB 909, § 3, eff. July 21, 2016.

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Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

End of Document

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-636

54-636. Department; enforcement powers

**Currentness**

The department may cooperate with the Secretary of Agriculture in carrying out applicable federal law and the regulations issued by the Secretary of Agriculture under such law. The department may enter into contracts with any person to implement any or all of the provisions of the Commercial Dog and Cat Operator Inspection Act.

**Credits**

Laws 2000, LB 825, § 12.

Neb. Rev. St. § 54-636, NE ST § 54-636

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-637

54-637. Information on spaying and neutering; requirements

**Currentness**

(1) Every dealer, commercial dog or cat breeder, animal shelter, animal rescue, animal control facility, or pet shop or any other retailer, who transfers ownership of a dog or cat to an ultimate consumer, shall deliver to the ultimate consumer of each dog or cat at the time of sale, written material, in a form determined by such seller, containing information on the benefits of spaying and neutering. The written material shall include recommendations on establishing a relationship with a veterinarian, information on early-age spaying and neutering, the health benefits associated with spaying and neutering pets, the importance of minimizing the risk of homeless or unwanted animals, and the need to comply with applicable license laws.

(2) The delivering of any model materials prepared by the Pet Industry Joint Advisory Council or the Nebraska Humane Society shall satisfy the requirements of subsection (1) of this section.

**Credits**

Laws 2003, LB 274, § 4; Laws 2010, LB 910, § 8, eff. July 15, 2010; Laws 2012, LB 427, § 5, eff. Oct. 1, 2012.

Neb. Rev. St. § 54-637, NE ST § 54-637

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-638

54-638. Provision for spaying or neutering; when

**Currentness**

Provision shall be made for spaying or neutering all dogs and cats released for adoption or purchase from any public or private animal shelter, animal rescue, or animal control facility operated by a humane society, a county, a city, or another political subdivision. Such provision may be made by:

- (1) Causing the dog or cat to be spayed or neutered by a licensed veterinarian before releasing the dog or cat for adoption or purchase; or
- (2) Entering into a written agreement with the adopter or purchaser of the dog or cat, guaranteeing that spaying or neutering will be performed by a licensed veterinarian in compliance with an agreement which shall contain the following information:
  - (a) The date of the agreement;
  - (b) The name, address, and signature of the releasing entity and the adopter or purchaser;
  - (c) A description of the dog or cat to be adopted or purchased;
  - (d) A statement, in conspicuous bold print, that spaying or neutering of the dog or cat is required pursuant to this section; and
  - (e) The date by which the spaying or neutering will be completed, which date shall be (i) in the case of an adult dog or cat, the thirtieth day after the date of adoption or purchase or (ii) in the case of a pup or kitten, either (A) the thirtieth day after a specified date estimated to be the date the pup or kitten will reach six months of age or (B) if the releasing entity has a written policy recommending spaying or neutering of certain pups or kittens at an earlier date, the thirtieth day after such date.

**Credits**

Laws 2003, LB 274, § 5; Laws 2010, LB 910, § 9, eff. July 15, 2010.

Neb. Rev. St. § 54-638, NE ST § 54-638

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-639

54-639. Adopter or purchaser; agreement; requirements

Currentness

An adopter or purchaser who signs an agreement under [section 54-638](#) shall cause the adopted or purchased dog or cat to be spayed or neutered on or before the date stated in the agreement. If such date falls on a Saturday, Sunday, or legal holiday, the date may be extended to the first business day following such date. The releasing entity may extend the date for thirty days upon presentation of a letter or telephone report from a licensed veterinarian, stating that the life or health of the adopted or purchased dog or cat would be jeopardized by spaying or neutering, and such extensions may continue to be granted until such veterinarian determines that spaying or neutering would no longer jeopardize the life or health of the adopted or purchased dog or cat.

**Credits**

[Laws 2003, LB 274, § 6.](#)

Neb. Rev. St. § 54-639, NE ST § 54-639

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-640

54-640. Commercial dog or cat breeder; duties

Currentness

A commercial dog or cat breeder shall:

- (1) Maintain housing facilities and primary enclosures in a sanitary condition;
- (2) Enable all dogs and cats to remain dry and clean;
- (3) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs and cats;
- (4) Provide sufficient shade to shelter all the dogs and cats housed in the primary enclosure at one time;
- (5) Provide dogs and cats with easy and convenient access to adequate amounts of clean food and water;
- (6) Provide dogs with adequate socialization. For purposes of this subdivision, adequate socialization means physical contact with other dogs and with human beings, other than being fed;
- (7) Assure that a handler's hands are washed before and after handling each infectious or contagious cat;
- (8) Maintain a written veterinary care plan developed in conjunction with an attending veterinarian; and
- (9) Provide veterinary care without delay when necessary.

**Credits**

[Laws 2003, LB 274, § 7](#); [Laws 2009, LB 241, § 10](#), eff. Aug. 30, 2009; [Laws 2012, LB 427, § 6](#), eff. Oct. 1, 2012.

Neb. Rev. St. § 54-640, NE ST § 54-640

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-641

54-641. Licensees; primary enclosures; requirements

Currentness

The primary enclosures of all licensees shall meet the following requirements:

- (1) A primary enclosure shall provide adequate space appropriate to the age, size, weight, and breed of each dog or cat. For purposes of this subdivision, adequate space means sufficient room to allow each dog or cat to turn around without touching another animal, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner without the head of such animal touching the top of the enclosure, which shall be at least six inches above the head of the tallest animal when the animal is standing;
- (2) A primary enclosure shall have solid surface flooring or a flooring material that protects the dogs' and cats' feet and legs from injury and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor;
- (3) If a primary enclosure has a suspended floor constructed of metal strands, the strands shall either be greater than one-eighth of an inch in diameter (nine gauge) or coated with a material such as plastic or fiberglass; and
- (4) The suspended floor of any primary enclosure shall be strong enough so that the floor does not sag or bend between the structural supports.

**Credits**

[Laws 2003, LB 274, § 8](#); [Laws 2012, LB 427, § 7](#), eff. Oct. 1, 2012.

Neb. Rev. St. § 54-641, NE ST § 54-641

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-641.01

54-641.01. Commercial dog breeder; dogs; opportunity for exercise

Currentness

(1) A commercial dog breeder shall provide dogs with the opportunity for exercise as follows:

(a) A primary enclosure shall have an entry that allows each dog unfettered access to an exercise area that is at least three times the size of the requirements for a primary enclosure. The entry may be closed during cleaning, under direction of a licensed veterinarian, or in the case of inclement weather. The exercise area shall have solid surface flooring or a flooring material that if of mesh or slatted construction does not allow the dog's feet to pass through any openings in the floor. Any exercise area suspended floor constructed of metal strands shall be required to have strands that are greater than one-eighth of an inch in diameter (nine gauge) or coated with a material such as plastic or fiberglass. All suspended flooring shall be strong enough so as not to sag or bend between any structural supports and be of a surface that is easily cleaned and disinfected. The exercise area shall have protection available from wind, rain, and snow if access to the primary enclosure is unavailable; and

(b) Any dog not housed in a primary enclosure that meets the exercise area requirements of subdivision (a) of this subsection shall be provided with the opportunity for exercise according to a plan approved by the attending veterinarian, in writing. The opportunity for exercise shall be accomplished by:

(i) Providing access to a run or open area at a frequency and duration prescribed by the attending veterinarian; or

(ii) Removal of the dogs from the primary enclosure at least twice daily to be walked, allowed to move about freely in an open area, or placed in an exercise area that meets the requirements of subdivision (a) of this subsection.

(2) Subsection (1) of this section shall not apply to:

(a) Any dog that is less than six months of age;

(b) The primary enclosure of a nursing facility that houses any female dog that is due to give birth within the following two weeks or a nursing dog and her puppies;

(c) Any dog that is injured or displays any clinical signs of disease. In such case, any injury or clinical signs of disease shall be noted in the dog's health records and the dog shall be returned to exercise upon recovery from such injury or disease; or

(d) Any dog that is excluded from the exercise requirements of subsection (1) of this section pursuant to a written directive of a licensed veterinarian.

(3) Any primary enclosure newly constructed after October 1, 2012, shall comply with subdivision (1)(a) of this section. A primary enclosure in existence on October 1, 2012, shall not be required to comply with subdivision (1)(a) of this section for the life of such facility.

**Credits**

[Laws 2012, LB 427, § 8](#), eff. Oct. 1, 2012.

Neb. Rev. St. § 54-641.01, NE ST § 54-641.01

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-641.02

54-641.02. Commercial dog breeder; veterinary care; review of health records; duties of breeder

Currentness

(1) A commercial dog breeder shall ensure that each dog under his or her care, supervision, or control receives adequate veterinary care. A commercial dog breeder's written veterinary care plan shall provide for, in addition to requirements prescribed by rule and regulation of the department:

(a) The maintenance of individual health records for each dog bought, raised, or otherwise obtained, held, kept, maintained, sold, donated, or otherwise disposed of, including by death or euthanasia, except that litter health records may be kept on litters when litter mates are treated with the same medication or procedure;

(b) Establishment of a program of disease control and prevention, pest and parasite control, before and after procedure care, nutrition, and euthanasia supervised by the attending veterinarian. Such program shall provide for regularly scheduled onsite visits to the facility by the veterinarian and shall be annually reviewed and updated by the veterinarian at the time of an onsite visit that includes the veterinarian's walk-through of the facility and observation by the veterinarian of dogs under the commercial dog breeder's care, supervision, or control; and

(c) A wellness examination by a licensed veterinarian of each breeding dog at least once every three years, to include a basic physical and dental examination and corresponding notations entered into the dog's health records. Such examination shall not require laboratory analysis unless directed by the veterinarian.

(2) During regularly scheduled inspections of a commercial dog breeder's facility conducted by the department, the health records of a random sample of at least five percent of the breeding dogs shall be reviewed to verify that such records correspond to the dog's permanent identification and verify that the health records are properly maintained.

(3) For each dog under the commercial dog breeder's care, supervision, or control, the breeder shall:

(a) Ensure that all breeding dogs receive regular grooming. Coat matting shall not exceed ten percent, and nails shall be trimmed short enough to ensure the comfort of the dog;

(b) Contact a licensed veterinarian without delay after an occurrence of a serious or life-threatening injury or medical condition of such dog. The dog shall be treated as prescribed by the veterinarian;

(c) Ensure that all surgical births or other surgical procedures shall be performed by a licensed veterinarian using anesthesia. Commercial dog breeders may remove dew claws and perform tail docking under sterile conditions within the first seven days of the dog's life. Wounds shall be treated and monitored by the breeder; and

(d) Ensure that, if euthanasia is necessary, it shall be performed by a licensed veterinarian in accordance with recommendations for the humane euthanization of dogs as published by the American Veterinary Medical Association.

**Credits**

[Laws 2012, LB 427, § 9](#), eff. Oct. 1, 2012.

Neb. Rev. St. § 54-641.02, NE ST § 54-641.02

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-641.03

54-641.03. Breeding dog; microchip; identification

**Currentness**

Each breeding dog shall be identified by the implantation of a microchip, and each dog's health records shall accurately record the appropriate identification. The department may by rule or regulation require identification of any dog by tag, tattoo, or other method if the microchip system is determined to be ineffective. A commercial dog breeder licensed prior to October 1, 2012, who utilizes a method or methods of identification other than microchipping as authorized by rule and regulation of the department prior to October 1, 2012, may continue to utilize such method or methods.

**Credits**

Laws 2012, LB 427, § 10, eff. Oct. 1, 2012.

Neb. Rev. St. § 54-641.03, NE ST § 54-641.03

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-642

54-642. Department; submit report of costs and revenue

**Currentness**

On or before November 1 of each year, the department shall submit electronically a report to the Legislature in sufficient detail to document all costs incurred in the previous fiscal year in carrying out the Commercial Dog and Cat Operator Inspection Act. The report shall identify costs incurred by the department to administer the act and shall detail costs incurred by primary activity. The department shall also provide a breakdown by category of all revenue credited to the Commercial Dog and Cat Operator Inspection Program Cash Fund in the previous fiscal year. The Agriculture Committee and Appropriations Committee of the Legislature shall review the report to ascertain program activity levels and to determine funding requirements of the program.

**Credits**

Laws 2006, LB 856, § 16; Laws 2012, LB 782, § 82, eff. July 19, 2012.

Neb. Rev. St. § 54-642, NE ST § 54-642

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(c) Commercial Dog and Cat Operator Inspection Act

Neb.Rev.St. § 54-643

54-643. Administrative fines; disposition; lien; collection

**Currentness**

(1) All money collected by the department pursuant to [section 54-633](#) shall be remitted to the State Treasurer for distribution in accordance with [Article VII, section 5, of the Constitution of Nebraska](#).

(2) Any administrative fine levied pursuant to [section 54-633](#) which remains unpaid for more than sixty days shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property.

**Credits**

[Laws 2007, LB 12, § 9](#).

Neb. Rev. St. § 54-643, NE ST § 54-643

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KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(d) Dog and Cat Purchase Protection Act

Neb.Rev.St. § 54-644

54-644. Act, how cited

**Currentness**

Sections 54-644 to [54-650](#) shall be known and may be cited as the Dog and Cat Purchase Protection Act.

**Credits**

[Laws 2009, LB 241, § 11](#), eff. Jan. 1, 2010.

Neb. Rev. St. § 54-644, NE ST § 54-644

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

---

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Proposed Legislation

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(d) Dog and Cat Purchase Protection Act

Neb.Rev.St. § 54-645

54-645. Terms, defined

Currentness

For purposes of the Dog and Cat Purchase Protection Act:

- (1) Casual breeder means any person, other than a commercial dog or cat breeder as such terms are defined in [section 54-626](#), who offers for sale, sells, trades, or receives consideration for one or more pet animals from a litter produced by a female dog or cat owned by such casual breeder;
- (2) Clinical symptom means indication of an illness or dysfunction that is apparent to a veterinarian based on the veterinarian's observation, examination, or testing of an animal or on a review of the animal's medical records;
- (3) Health certificate means the official small animal certificate of veterinary inspection of the Bureau of Animal Industry of the Department of Agriculture;
- (4) Pet animal means a dog, wholly or in part of the species *Canis familiaris*, or a cat, wholly or in part of the species *Felis domesticus*, that is under fifteen months of age;
- (5) Purchaser means the final owner of a pet animal purchased from a seller. Purchaser does not include a person who purchases a pet animal for resale;
- (6) Seller means a casual breeder or any commercial establishment, including a commercial dog or cat breeder, dealer, or pet shop as such terms are defined in [section 54-626](#), that engages in a business of selling pet animals to a purchaser. A seller does not include an animal control facility, animal rescue, or animal shelter as defined in [section 54-626](#) or any animal adoption activity that an animal control facility, animal rescue, or animal shelter conducts offsite at any pet store or other commercial establishment; and
- (7)(a) Serious health problem means a congenital or hereditary defect or contagious disease that causes severe illness or death of the pet animal.

(b) Serious health problem does not include (i) parvovirus if the diagnosis of parvovirus is made after the seven-business-day requirement in [subsection \(1\) of section 54-647](#) or (ii) any other contagious disease that causes severe illness or death after ten calendar days after delivery of the pet animal to the purchaser.

**Credits**

[Laws 2009, LB 241, § 12](#), eff. Jan. 1, 2010; [Laws 2010, LB 910, § 10](#), eff. July 15, 2010; [Laws 2012, LB 427, § 11](#), eff. Oct. 1, 2012.

Neb. Rev. St. § 54-645, NE ST § 54-645

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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Proposed Legislation

West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(d) Dog and Cat Purchase Protection Act

Neb.Rev.St. § 54-646

54-646. Seller; written disclosure statement; contents; receipt; notice of purchaser's rights and responsibilities; health certificate; retention of records

Currentness

(1) A seller shall deliver to the purchaser at the time of sale of a pet animal a written disclosure statement containing the following information regarding the pet animal:

(a) The name, address, and license number of any commercial dog or cat breeder or dealer as such terms are defined in [section 54-626](#) or, if applicable, the United States Department of Agriculture license number of the breeder or any broker who has had possession of the animal prior to the seller's possession;

(b) The date of the pet animal's birth, if known, the state in which the pet animal was born, if known, and the date the seller received the pet animal;

(c) The sex and color of the pet animal, any other identifying marks apparent upon the pet animal, and the breed of the pet animal, if known, or a statement that the breed of the pet animal is unknown or the pet animal is of mixed breed;

(d) The pet animal's individual identifying tag, tattoo, microchip number, or collar number;

(e) The names and registration numbers of the sire and dam and the litter number, if applicable and if known;

(f) A record of any vaccination, worming treatment, or medication administered to the pet animal while in the possession of the seller and, if known, any such vaccination, treatment, or medication administered to the pet animal prior to the date the seller received the pet animal; and

(g) The date or dates of any examination of the pet animal by a licensed veterinarian while in the possession of the seller.

(2) The seller may include any of the following with the written disclosure statement required by subsection (1) of this section:

- (a) A statement that a veterinarian examined the pet animal and, at the time of the examination, the pet animal had no apparent or clinical symptoms of a serious health problem that would adversely affect the health of the pet animal at the time of sale or that is likely to adversely affect the health of the pet animal in the future; and
- (b) A record of any serious health problem that adversely affects the pet animal at the time of sale or that is likely to adversely affect the health of the pet animal in the future.
- (3) The written disclosure statement made pursuant to this section shall be signed by the seller certifying the accuracy of the written disclosure statement and by the purchaser acknowledging receipt of the written disclosure statement. In addition to information required to be given to a purchaser under this section, at the time of sale the seller shall provide the purchaser with written notice of the existence of the purchaser's rights and responsibilities under the Dog and Cat Purchase Protection Act or a legible copy of the act.
- (4) If the pet animal is sold to a purchaser who resides outside of the state or intends that the pet animal will be relocated or permanently domiciled outside of the state, the seller shall provide the purchaser with a health certificate signed by a licensed veterinarian who has examined the pet animal and is authorized to certify such certificate.
- (5) The seller shall maintain a copy of any written disclosure statements made and any other records on the health, status, or disposition of each pet animal for at least one year after the date of sale to a purchaser.

#### **Credits**

[Laws 2009, LB 241, § 13](#), eff. Jan. 1, 2010; [Laws 2012, LB 427, § 12](#), eff. Oct. 1, 2012.

Neb. Rev. St. § 54-646, NE ST § 54-646

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(d) Dog and Cat Purchase Protection Act

Neb.Rev.St. § 54-647

54-647. Recourse to remedies; purchaser; duties; notice to seller; remedies

Currentness

(1) In order to have recourse to the remedies available to purchasers under this section, a purchaser shall have the pet animal examined by a licensed veterinarian within seven business days after delivery of the pet animal to the purchaser. The pet animal shall be declared unfit for sale and the purchaser may obtain one of the remedies listed in subsection (2) or (3) of this section if (a) during such examination, the veterinarian diagnoses the pet animal with a serious health problem that the veterinarian believes existed at the time of delivery of the pet animal to the purchaser or (b) within fifteen months after the date of birth of the pet animal, a veterinarian diagnoses the pet animal with a serious health problem or states in writing that the pet animal has died from a serious health problem that the veterinarian believes existed at the time of delivery of the pet animal to the purchaser.

(2) If a pet animal is diagnosed with a serious health problem under subsection (1) of this section, the purchaser shall notify the seller within two business days after the diagnosis and provide the seller with the name and telephone number of the veterinarian or a copy of the veterinarian's report. After such notification, the purchaser may obtain one of the following remedies from the seller:

- (a) A refund of the full purchase price of the pet animal upon return of such pet animal to the seller;
- (b) An exchange for a pet animal of the purchaser's choice of equivalent value, if such pet animal is available, upon return of the pet animal, if alive, to the seller; or
- (c) Reimbursement for reasonable veterinary fees, not to exceed the full purchase price of the pet animal.

(3) If a pet animal dies from a serious health problem as determined under subsection (1) of this section, the purchaser shall notify the seller within two business days after receipt of the written statement of the veterinarian by the purchaser and shall provide the seller with a copy of such written statement. After receipt of the written statement by the seller, the purchaser may obtain one of the following remedies from the seller:

- (a) A refund of the full purchase price of the pet animal; or
- (b) A pet animal of the purchaser's choice of equivalent value, if such pet animal is available, and reimbursement for reasonable veterinary fees not to exceed one-half of the full purchase price of the pet animal.

(4) For purposes of this section, veterinary fees shall be deemed reasonable if the service is appropriate for the diagnosis and treatment of the serious health problem and the cost of the service is comparable to similar services provided by licensed veterinarians in close proximity to the treating veterinarian.

**Credits**

[Laws 2009, LB 241, § 14](#), eff. Jan. 1, 2010.

Neb. Rev. St. § 54-647, NE ST § 54-647

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(d) Dog and Cat Purchase Protection Act

Neb.Rev.St. § 54-648

54-648. Denial of refund, reimbursement of fees, or replacement; conditions

**Currentness**

No refund or reimbursement of fees or replacement of a pet animal under [section 54-647](#) shall be required if one or more of the following conditions exist:

- (1) The serious health problem or death of the pet animal resulted from maltreatment, neglect, or injury occurring after delivery of the pet animal to the purchaser;
- (2) Any written disclosure statements provided by a seller pursuant to [subsection \(2\) of section 54-646](#) disclosed the serious health problem for which the purchaser is seeking a remedy; or
- (3) The purchaser failed to follow through with preventative care, including, but not limited to, vaccinations, deworming treatment, or medication, recommended by a licensed veterinarian examining the pet animal.

**Credits**

[Laws 2009, LB 241, § 15](#), eff. Jan. 1, 2010.

Neb. Rev. St. § 54-648, NE ST § 54-648

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(d) Dog and Cat Purchase Protection Act

Neb.Rev.St. § 54-649

54-649. Purchaser; file action; seller's rights; limit of recovery

Currentness

(1) If a seller does not comply with a demand for remedy by a purchaser under [section 54-647](#), the purchaser may file an action in a court of competent jurisdiction.

(2) If a seller contests a demand for remedy by a purchaser under [section 54-647](#), the seller may require the purchaser to produce the pet animal for examination or autopsy by a licensed veterinarian designated by the seller. The seller shall pay for all costs associated with such examination or autopsy. The seller shall have a right of recovery against the purchaser if the seller is not obligated to provide the remedy sought.

(3) The prevailing party in a proceeding under this section shall be limited to a recovery of actual costs and no more than five hundred dollars in reasonable attorney's fees.

**Credits**

[Laws 2009, LB 241, § 16](#), eff. Jan. 1, 2010.

Neb. Rev. St. § 54-649, NE ST § 54-649

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West's Revised Statutes of Nebraska Annotated  
Chapter 54. Livestock  
Article 6. Dogs and Cats  
(d) Dog and Cat Purchase Protection Act

Neb.Rev.St. § 54-650

54-650. Other rights and remedies not limited; act; how construed

**Currentness**

Nothing in the Dog and Cat Purchase Protection Act shall limit any rights and remedies otherwise available under the laws of this state. Any agreement or contract entered into by a seller and a purchaser waiving any rights under the act is void. Nothing in the Dog and Cat Purchase Protection Act shall be construed to limit a seller to offering only those warranties, express or implied, required by the act.

**Credits**

[Laws 2009, LB 241, § 17](#), eff. Jan. 1, 2010.

Neb. Rev. St. § 54-650, NE ST § 54-650

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4401

71-4401. Terms, defined

Effective: September 1, 2019

[Currentness](#)

For purposes of sections 71-4401 to [71-4412](#), unless the context otherwise requires:

- (1) Compendium means the Compendium of Animal Rabies Prevention and Control as published by the National Association of State Public Health Veterinarians;
- (2) Department means the Department of Health and Human Services;
- (3) Domestic animal means any dog of the species *Canis familiaris*, cat of the species *Felis domesticus*, or ferret of the species *Mustela putorius furo*, and cat means a cat which is a household pet;
- (4) Hybrid animal means any animal which is the product of the breeding of a domestic dog with a nondomestic canine species;
- (5) Own, unless otherwise specified, means to possess, keep, harbor, or have control of, charge of, or custody of a domestic or hybrid animal. This term does not apply to domestic or hybrid animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than thirty days;
- (6) Owner means any person possessing, keeping, harboring, or having charge or control of any domestic or hybrid animal or permitting any domestic or hybrid animal to habitually be or remain on or be lodged or fed within such person's house, yard, or premises. This term does not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic or hybrid animals owned by other persons for a period of not more than thirty days;
- (7) Rabies control authority means county, township, city, or village health and law enforcement officials who shall enforce sections 71-4401 to [71-4412](#) relating to the vaccination and impoundment of domestic or hybrid animals. Such public officials are not responsible for any accident or disease of a domestic or hybrid animal resulting from the enforcement of such sections; and
- (8) Vaccination against rabies means the inoculation of a domestic or hybrid animal with a United States Department of Agriculture-licensed rabies vaccine administered consistent with its labeling. Such vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska or licensed in the state where the vaccination was administered.

**Credits**

Laws 1969, ch. 445, § 1, p. 1484; Laws 1987, LB 104, § 1; [Laws 1996, LB 1044, § 674](#); [Laws 2000, LB 1115, § 75](#); [Laws 2007, LB 25, § 1](#); [Laws 2007, LB 296, § 585](#); [Laws 2019, LB 61, § 1](#), eff. Sept. 1, 2019.

Neb. Rev. St. § 71-4401, NE ST § 71-4401

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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West's Revised Statutes of Nebraska Annotated  
Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4402

71-4402. Vaccination against rabies; required; vaccine; sales

**Currentness**

(1) Every domestic animal in the State of Nebraska shall be vaccinated against rabies with a licensed vaccine and revaccinated at intervals specified by rules and regulations adopted and promulgated by the department. Young domestic animals shall be initially vaccinated at the age specified in such rules and regulations. Unvaccinated domestic animals acquired or moved into the State of Nebraska shall be vaccinated within thirty days after purchase or arrival unless under the age for initial vaccination.

(2) The rabies vaccine used to vaccinate domestic animals pursuant to this section shall be sold only to licensed veterinarians.

**Credits**

Laws 1969, ch. 445, § 2, p. 1485; Laws 1987, LB 104, § 2; [Laws 1990, LB 888, § 1](#); [Laws 2007, LB 25, § 2](#).

Neb. Rev. St. § 71-4402, NE ST § 71-4402

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment 71-4402.01. Repealed by Laws 2019, LB 61, § 7, eff. Sept. 1, 2019

[West's Revised Statutes of Nebraska Annotated](#)  
[Chapter 71. Public Health & Welfare](#)  
[Article 44. Rabies](#)

Neb.Rev.St. § 71-4402.01

71-4402.01. Repealed by Laws 2019, LB 61, § 7, eff. Sept. 1, 2019

Effective: September 1, 2019

[Currentness](#)

Neb. Rev. St. § 71-4402.01, NE ST § 71-4402.01

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Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4402.02

71-4402.02. Hybrid animal; vaccination against rabies; required; vaccine; sales

**Currentness**

(1) Except as provided in subsection (3) of this section, every hybrid animal in the State of Nebraska shall be vaccinated against rabies and shall be revaccinated at intervals specified by rules and regulations adopted and promulgated by the department. A young hybrid animal shall be initially vaccinated at the age specified in such rules and regulations. An unvaccinated hybrid animal acquired or moved into the State of Nebraska shall be vaccinated within thirty days after purchase or arrival unless under the age for initial vaccination.

(2) The rabies vaccine used to vaccinate a hybrid animal pursuant to this section shall be sold only to licensed veterinarians.

(3) An owner of a hybrid animal in this state prior to the date of development of a licensed vaccine determined scientifically to be reliable in preventing rabies in a hybrid animal shall have one year after such date to comply with this section.

**Credits**

[Laws 2007, LB 25, § 3.](#)

Neb. Rev. St. § 71-4402.02, NE ST § 71-4402.02

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Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4402.03

71-4402.03. Control and prevention of rabies; rules and regulations

Effective: September 1, 2019

[Currentness](#)

To protect the health, safety, and welfare of the public and to ensure, to the greatest extent possible, efficient and adequate practices, the department shall adopt and promulgate rules and regulations for the control and prevention of rabies. Such rules and regulations shall generally comply with the compendium and the recommendations of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services. The department may consider changes in the compendium and recommendations of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services when adopting and promulgating such rules and regulations.

**Credits**

[Laws 2007, LB 25, § 4](#); [Laws 2019, LB 61, § 2](#), eff. Sept. 1, 2019.

Neb. Rev. St. § 71-4402.03, NE ST § 71-4402.03

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West's Revised Statutes of Nebraska Annotated  
Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4403

71-4403. Veterinarian; vaccination for rabies; certificate; contents

Effective: September 1, 2019

[Currentness](#)

It shall be the duty of each veterinarian, at the time of vaccinating any domestic or hybrid animal, to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information:

- (1) The owner's name and address;
- (2) An adequate description of the domestic or hybrid animal, including, but not limited to, such items as the domestic or hybrid animal's breed, sex, age, name, and distinctive markings;
- (3) The date of vaccination;
- (4) The rabies vaccination tag number;
- (5) The type of rabies vaccine administered by dosage and number of years of effectiveness;
- (6) The manufacturer's serial number of the vaccine used; and
- (7) The date by which the next vaccination is due.

Such veterinarian shall issue a tag with the certificate of vaccination.

**Credits**

Laws 1969, ch. 445, § 3, p. 1485; Laws 1987, LB 104, § 3; [Laws 2007, LB 25, § 5](#); [Laws 2019, LB 61, § 3](#), eff. Sept. 1, 2019.

Neb. Rev. St. § 71-4403, NE ST § 71-4403

Current through legislation effective March 26, 2020, of the 2nd Regular Session of the 106th Legislature (2020).

West's Revised Statutes of Nebraska Annotated  
Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4404

71-4404. Vaccination for rabies; cost; payment

[Currentness](#)

The cost of rabies vaccination shall be borne by the owner of the domestic or hybrid animal.

**Credits**

Laws 1969, ch. 445, § 4, p. 1486; Laws 1987, LB 104, § 4; [Laws 2007, LB 25, § 6](#).

Neb. Rev. St. § 71-4404, NE ST § 71-4404

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Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4405

71-4405. Vaccination; domestic animals exempt

Currentness

(1) The provisions of [sections 71-4401 to 71-4412](#) with respect to vaccination shall not apply to any domestic or hybrid animal owned by a person temporarily remaining within the State of Nebraska for less than thirty days, to any domestic or hybrid animal brought into the State of Nebraska for field trial or show purposes, or to any domestic or hybrid animal brought into the state for hunting purposes for a period of less than thirty days. Such domestic or hybrid animals shall be kept under strict supervision of the owner. It shall be unlawful to bring any domestic or hybrid animal into the State of Nebraska which does not comply with the animal health laws and import rules and regulations of the State of Nebraska which are applicable to domestic or hybrid animals.

(2) Domestic or hybrid animals assigned to a research institution or a similar facility shall be exempt from [sections 71-4401 to 71-4412](#).

**Credits**

Laws 1969, ch. 445, § 5, p. 1486; Laws 1987, LB 104, § 5; [Laws 2007, LB 25, § 7](#).

Neb. Rev. St. § 71-4405, NE ST § 71-4405

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West's Revised Statutes of Nebraska Annotated  
Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4406

71-4406. Post-incident management

Effective: September 1, 2019

[Currentness](#)

Any domestic animal which has bitten any person or caused an abrasion of the skin of any person shall be subjected to post-incident management as provided in rules and regulations adopted and promulgated by the department.

**Credits**

Laws 1969, ch. 445, § 6, p. 1486; Laws 1987, LB 104, § 6; Laws 1989, LB 51, § 1; [Laws 2007, LB 25, § 8](#); [Laws 2019, LB 61, § 4](#), eff. Sept. 1, 2019.

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Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4407

71-4407. Domestic or hybrid animal or livestock; postexposure management

Effective: September 1, 2019

[Currentness](#)

Domestic or hybrid animals or livestock known to have been exposed to a confirmed or suspected rabid animal shall be subjected to postexposure management as provided in rules and regulations adopted and promulgated by the department.

**Credits**

Laws 1969, ch. 445, § 7, p. 1487; Laws 1987, LB 104, § 7; [Laws 2007, LB 25, § 9](#); [Laws 2019, LB 61, § 5](#), eff. Sept. 1, 2019.

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Article 44. Rabies

Neb.Rev.St. § 71-4408

71-4408. Rabies control authority; pounds; authorized; impoundment; notice; release; fee

**Currentness**

(1) The rabies control authority may authorize an animal pound or pounds or may enter into a cooperative agreement with a licensed veterinarian for the establishment and operation of a pound.

(2) Any dog or hybrid of the family Canidae found outside the owner's premises whose owner does not possess a valid certificate of rabies vaccination and valid rabies vaccination tag for such dog or hybrid of the family Canidae shall be impounded. The rabies control authority may require the impoundment of domestic or hybrid animals other than dogs or hybrids of the family Canidae. All impounded domestic or hybrid animals shall be given proper care, treatment, and maintenance. Each impounded domestic or hybrid animal shall be kept and maintained at the pound for a period of not less than seventy-two hours unless reclaimed earlier by the owner.

(3) Notice of impoundment of all animals, including any significant marks of identification, shall be posted at the pound as public notification of impoundment. Any unvaccinated domestic or hybrid animal may be reclaimed by its owner during the period of impoundment by payment of prescribed pound fees and by complying with the rabies vaccination requirement of [sections 71-4401 to 71-4412](#) within seventy-two hours of release. Any vaccinated domestic or hybrid animal impounded because its owner has not presented a valid certificate of rabies vaccination and a valid rabies vaccination tag for such domestic or hybrid animal may be reclaimed by its owner by furnishing proof of rabies vaccination and payment of all impoundment fees prior to release.

(4) At the expiration of impoundment, a domestic or hybrid animal may be claimed by payment of established pound fees and by compliance with the rabies vaccination requirement of [sections 71-4401 to 71-4412](#) within seventy-two hours of release. If the domestic or hybrid animal is unclaimed at the end of five days, the authorities may dispose of the domestic or hybrid animal in accordance with applicable laws or rules and regulations.

**Credits**

Laws 1969, ch. 445, § 8, p. 1487; Laws 1987, LB 104, § 8; [Laws 2007, LB 25, § 10](#).

Neb. Rev. St. § 71-4408, NE ST § 71-4408

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West's Revised Statutes of Nebraska Annotated  
Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4409

71-4409. Rabies control authority; enforcement of sections; duties

**Currentness**

The rabies control authority shall enforce [sections 71-4401](#) to [71-4412](#).

In the event that the health and law enforcement officials of a county, township, city, or village fail to act with sufficient promptness in enforcing [sections 71-4401](#) to [71-4412](#), the department may take all actions necessary for the proper administration and enforcement of such sections relating to vaccination and impoundment of domestic or hybrid animals. In such a case no authorized representatives of the department or any law enforcement officials enforcing such sections shall be responsible for any accident or disease of a domestic or hybrid animal resulting from the enforcement of such sections.

**Credits**

Laws 1969, ch. 445, § 9, p. 1488; Laws 1987, LB 104, § 9; [Laws 2007, LB 25, § 11](#).

Neb. Rev. St. § 71-4409, NE ST § 71-4409

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Article 44. Rabies

Neb.Rev.St. § 71-4410

71-4410. Violation; penalty; order for seizure

**Currentness**

The owner of any domestic or hybrid animal or any person who violates any of the provisions of [sections 71-4401 to 71-4412](#) shall be guilty of a Class V misdemeanor. When the owner of any domestic or hybrid animal or other animal fails or refuses to comply with [section 71-4406](#) or [71-4407](#), the rabies control authority shall obtain an order for seizure of such animal pursuant to Chapter 29, article 8.

**Credits**

Laws 1969, ch. 445, § 10, p. 1488; Laws 1978, LB 685, § 1; Laws 1987, LB 104, § 10; [Laws 2007, LB 25, § 12](#).

Neb. Rev. St. § 71-4410, NE ST § 71-4410

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Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4411

71-4411. Impoundment fees; payment

[Currentness](#)

Impoundment fees shall be paid by the owner. Fees for impoundment at public facilities shall be established by the rabies control authority.

**Credits**

Laws 1969, ch. 445, § 11, p. 1488.

Neb. Rev. St. § 71-4411, NE ST § 71-4411

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Chapter 71. Public Health & Welfare  
Article 44. Rabies

Neb.Rev.St. § 71-4412

71-4412. Control of rabies; vaccination; enforcement; political subdivisions

**Currentness**

In the State of Nebraska, all laws, ordinances, codes, or rules and regulations concerning the control of rabies or the vaccination of domestic or hybrid animals against rabies shall be enforced by the county, township, city, and village health and law enforcement officials or those other officers with regulatory authority as specified by the governing political subdivisions.

Whenever a county, township, city, or village requires the licensure of domestic or hybrid animals, it may require that, before a license is issued for the possession or maintenance of any domestic or hybrid animal in any such county, township, city, or village, the owner or keeper of the domestic or hybrid animal shall furnish to the clerk of such political subdivision a certification that the domestic or hybrid animal has been vaccinated against rabies in accordance with [sections 71-4401](#) to 71-4412.

**Credits**

Laws 1969, ch. 445, § 12, p. 1489; Laws 1987, LB 104, § 11; [Laws 2007, LB 25, § 13](#).

Neb. Rev. St. § 71-4412, NE ST § 71-4412

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All:

Please see the attached letter and below documents from Attorney Miller. Thank you for your time and attention to this matter.

I'm using Adobe Acrobat.

You can view "2020 Budget.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:cc470f6c-59b9-4b8e-8a1f-0f1009950e7d>

You can view "Purchase Agreement with DODGE COUNTY HUMANE SOCIETY.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:a6342c38-8cf3-4bd0-afe1-3f09626151cd>

You can view "Document1.2.docm" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:a8d99457-f5fd-4d4c-a6f4-c49732322d44>

You can view "image2020-06-02-165025.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:cc8fe0fd-579a-4611-b045-f15820315e4e>

You can view "Animal Control .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:30ce9a22-7bea-4a2f-b989-aace234be9e2>

You can view "DCHS response to calls .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:68652fcb-c80e-4b69-9548-6d72c427b587>

You can view "FW Humane Society.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:c08dc21c-ccf4-4236-93a7-d62d15c18556>

You can view "Info only.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:a901b647-94b0-42e8-8b51-5bebe3102f18>

You can view "RE Animal Control .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:feb679c8-b260-4bd4-846d-723fec825a2d>

You can view "Re DCHS .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:27997b0b-f47e-4c9e-9a1f-b72b82e75e9d>

You can view "RE DCHS complaint 9 11 18.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3855917d-fc1e-4a6a-bf6b-97e60b6fc697>

You can view "RE dchs.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:76200f1d-c812-4bb8-a898-f2e98de38854>

You can view "Re Needing clarification.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:f2e641b1-c61c-4fd0-be4d-e0033f694a4e>

You can view "20180208131644805.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:30d53802-010c-43ad-b988-a9f9693a928d>

You can view "20181203095913588 pdf.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:bb807983-b234-41f3-950f-06388b029cec>

You can view "April 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:b561eeff-3821-4ced-9a83-1d1a910d4c89>

You can view "April 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:fac078bb-c39d-4813-9261-e010c4affd5b>

You can view "April 19 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:ad24107d-abc8-4902-9b5f-046799038033>

You can view "April 2020 pdf.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:899cb05e-73ff-4795-9432-2b907c3729cd>

You can view "April 2020.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:416d1c65-240a-4ad8-a2fc-2c0d0eead3f5>

You can view "Aug 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:83dc4b04-0994-4b91-be32-b965bba682f6>

You can view "Aug 18 report.pdf" at:

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You can view "Aug 19 report.pdf" at:

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You can view "DCHS monthly stats.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:a91cc822-fa9d-4d06-bd14-97ac10c18d72>

You can view "Dec 17 \_ Jan 18 DCHS Report (18).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:82ecedc8-6046-4b03-843b-b55c9b3abfd7>

You can view "Dec 17 \_ Jan 18 DCHS Report.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:5fa2be74-7bbe-4f8d-825e-3e6dc31fd9e9>

You can view "Dec 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:0f5b87c5-7407-463b-9395-1aeefd4ad9d9>

You can view "Dec 17-Jan 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:86d2bc33-d8c0-403a-99b4-9c34ff88dab8>

You can view "Dec 17-Jan 18 report2.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:23f6722c-c41c-4fa9-a4b5-6280978c424f>

You can view "Dec 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:86415f7d-3245-49d3-8095-ad939a7b3b0e>

You can view "Dec 19 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:15ca4d88-a423-4164-a444-3f217ce114b7>

You can view "Euthanasia stats.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:8b6aef74-42a0-4ac0-a51a-ac4afa41c103>

You can view "Feb 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:2c0beb82-82c6-4bea-af65-c447f7e08a5f>

You can view "Feb 19 Report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:ed6a8dce-d888-4eee-9288-c06812d9583c>

You can view "Feb 20 Report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:e8efc2b2-9a1f-413b-a615-89f39684d2e3>

You can view "FW DCHS monthly stats.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:85294ef7-2e50-4d41-9244-627bed04fb44>

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<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:bd76f80c-ba03-4449-9e4a-e80120399017>

You can view "Fwd (5).msg" at:

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You can view "Fwd (6).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:ee8c553a-0dba-4f51-9cd7-2507fa108bd5>

You can view "Fwd (7).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:d9ee8143-3134-4f61-8d07-7a56007efc4d>

You can view "Fwd (8).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:fe77c4da-1e8b-4a36-a819-77f7731e14d6>

You can view "Fwd (9).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:f7724013-cd98-45cd-aa4e-e69e883b0191>

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<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:480b81d6-1dd2-4378-9e3d-e93e8dfa3e59>

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<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:e1c4c954-a891-4ff1-a445-69488852de7c>

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You can view "Fwd (20).msg" at:

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<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:ae201b71-28d4-4338-b293-30773239b9de>

You can view "Fwd (22).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:c498f6d3-4c11-4da7-8dac-818cb3d19521>

You can view "Fwd (23).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:7ade0cc8-1849-43c1-905e-f64eebd766bf>

You can view "Fwd (24).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:e5914a44-c28f-4352-89e7-5a7c2d068051>

You can view "Fwd Message from RNP002673B82420 (1).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:f7d9f3bc-3747-4940-bcbe-d88d89162dac>

You can view "Fwd Message from RNP002673B82420 (2).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:6b57a2b0-fa98-4faf-9b57-064fe0861966>

You can view "Fwd Message from RNP002673B82420 .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:29ba3129-8227-44d8-a4d0-fce2894f945d>

You can view "Fwd .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:735dfd5d-fe25-4666-91c7-961077a54493>

You can view "Jan 19 Report pdf.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:404e910b-272e-42af-93f1-124c0b88959f>

You can view "Jan 19 Report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:92ee7a49-e24d-4738-8e9f-7ba760518914>

You can view "Jan 20 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:26a0e6f8-d7af-437b-bd6a-a0313e4184a2>

You can view "Jan-Dec 16 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:c9eee7f8-8840-41f0-a2e3-df4ce03e05db>

You can view "Jan-Dec 16 report-1.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:872adef5-8465-407c-8582-3cf04215bd03>

You can view "July 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:e98ec8c0-d28f-4a45-97f5-0d25abd918f4>

You can view "July 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:78b19e2c-8d65-4bd7-b2a4-a6e78c906d1a>

You can view "July 19 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:5a963533-f016-4037-a3c3-6c6907a2b2b4>

You can view "June 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:759a84ca-6f8b-49c1-8a61-193e7351684b>

You can view "June 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:18a0aac8-e9cc-4fb0-93f4-a8ebaa3196df>

You can view "June 19 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:7958cdf0-89c4-41b3-b0e6-616b4d849937>

You can view "March 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:14e16cdb-5131-4895-8dbe-2bc63b239a2a>

You can view "March 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:45aa3af5-01c9-4028-9542-d92d386714ce>

You can view "March 19 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:c523cc12-fd92-4cb9-a626-471665760109>

You can view "March 20 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:0a9deb82-810e-48e2-8677-13987f86789c>

You can view "March 2020 Humane Society Data.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:aff9bbc2-06ab-4c24-be95-2d305cfa276f>

You can view "May 5 Council Received Documents.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:bfad4875-5239-48f3-a7e4-e2267ff62fc9>

You can view "May 12 Council Received Documents.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:be9805d2-03cc-44de-a1e1-758bc6072a7f>

You can view "May 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:587cb12c-4b21-4e56-a1b8-5d1f7d8a52a6>

You can view "May 19 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:0f58b980-ec1e-472d-83c8-b9d1b9bcc1d7>

You can view "May-July 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:bc58db17-c217-4e54-ad63-cae4e947af42>

You can view "May-July 17 report-1.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:6b27783b-c1d1-41a1-a570-2978a0b6cadc>

You can view "Nov 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:271fa69b-8570-445d-aa5f-3baeb4014153>

You can view "Nov 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:0540bba7-f8c5-4690-aa04-aa2b0d95eb67>

You can view "Nov 19 Report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:91824142-e2e5-43b3-9335-21d20cec18e6>

You can view "Nov 2014-Aug 2015 intake summary.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:baebad2b-57ef-42ce-a155-f0d9e711efd4>

You can view "Nov 2014-Aug 2015 intake.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:179a14ec-11f9-402f-a40c-fbd5ea02e267>

You can view "Oct 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:f6bb7c9d-5c41-4971-a04d-247149e66689>

You can view "Oct 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:75df0d8b-305f-42be-9c49-52250d6d2df6>

You can view "Oct 19 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:d5d6aeb6-22a2-48cc-a36a-6c9be3b7f09c>

You can view "October 2018 Stats from Humane Society.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:2df54ef5-2d43-4e6c-afe2-a4d4a3eb06e0>

You can view "RE Fwd .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:4a2fdb35-4b30-469f-934e-8befce25826e>

You can view "Sept 17 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:478543d9-e1ac-438c-b531-86322ecacdf6>

You can view "Sept 17 report-1.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:25290f97-14cf-4782-b6ef-01f70fcf8559>

You can view "Sept 18 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:e5679474-a9d6-412e-95bf-587eab511af0>

You can view "Sept 19 report.pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:cac02eaa-b55c-4122-9377-db88318e64a4>

You can view "DCHS monthly stats.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:4e07cf00-1e95-4668-8e4a-301f52a6ea4c>

You can view "FW DCHS monthly stats.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:aa42dad8-3f61-474b-adf1-6694d1dd93c1>

You can view "Fwd (2).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:20b5c9c2-11a7-4347-914e-54a1d037ef99>

You can view "Fwd (3).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:071ad4fc-5ad2-4163-b0ea-e833e37b985b>

You can view "Fwd .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:91610674-454e-4624-988d-ff78a7b94492>

You can view "Fwd (1).msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:84167476-2b92-45c6-8ac8-256b29a9d319>

You can view "animal complaint memo.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:15a58b04-2979-4a3e-9b04-423d20eba35c>

You can view "DCHS-1.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3caaf4fe-9811-432c-8783-b6b9cc3f25b1>

You can view "DCHS-2.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:b22e7358-5079-42e7-81e3-4aa8616058ca>

You can view "FW Animal Control Budget.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:b081a46b-72fa-4048-bdfe-13ab052153f7>

You can view "FW DCHS Jon Rohlfs.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:bb0e9063-5cb0-462d-b434-9ad7a1236282>

You can view "FW DCHS Letter .msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:427e287a-4594-4624-bafd-0bd224b29c6a>

You can view "FW dispatch call log.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:a133b41f-2846-47e8-abe5-99d8f05da4db>

You can view "FW Fwd -5.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:a668e5af-3553-4088-b9df-8c2d7da85b45>

You can view "FW Proposed amendment.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:f7d760b2-429b-4646-b245-49c1087c4ef3>

You can view "Re DCHS Contract.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:154d7655-2c63-40e8-b3f6-7e1a061cb561>

You can view "RE DCHS.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:f5206583-94a0-46c7-a6a1-4b4c10ff3e03>

You can view "Re Fwd -1.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:006aab67-89ef-4c06-a7e4-10cbc654f62b>

You can view "Re Fwd -2.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:92810465-821d-4c15-8882-11d0a7089406>

You can view "RE Fwd -3.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:861f5054-bdda-4b1c-8774-64fe042f9df1>

You can view "RE Fwd -6.msg" at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:779f2d9d-d4a4-453f-bdec-442c521dd163>

May 12, 2020 <http://www.fremontne.gov/ArchiveCenter/ViewFile/Item/2104>

May 5, 2020 <http://www.fremontne.gov/ArchiveCenter/ViewFile/Item/2100>