

TITLE XIII: GENERAL OFFENSES

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CHAPTER 130: PROPERTY OFFENSES

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§ 130.01 CRIMINAL MISCHIEF.

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

- (1) Damages property of another intentionally or recklessly;
- (2) Intentionally tampers with property of another so as to endanger person or property;

or

(3) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

(B) Criminal mischief is an offense:

(1) If the actor intentionally or maliciously causes pecuniary loss of \$200 or more but less than \$500; or

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

(Neb. RS 28-519) Penalty, see § 10.99

§ 130.02 CRIMINAL TRESPASS.

(A) It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof. (Neb. RS 28-520)

(B) It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to enter or remain in any place as to which notice against trespass is given by:

(1) Actual communication to the actor;

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

(3) Fencing or other enclosure manifestly designed to exclude intruders. (Neb. RS 28-521) Penalty, see § 10.99

§ 130.03 RADIO INTERFERENCE.

Any person operating, or causing to be operated, any motor, sign, or other electrical apparatus that is connected with the light and power system shall equip the apparatus with proper filtering attachments to eliminate interference, provided that the provisions herein shall not apply to the use of necessary medical equipment or apparatus where electrical interference cannot be reasonably and safely eliminated. Any person who so operates or causes to be operated any such electrical apparatus that interferes habitually with radio and television reception shall be deemed to be guilty of a misdemeanor. Penalty, see § 10.99

§ 130.04 INJURY TO TREES.

(A) It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade, or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits.

(B) Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council to do so, and the written permit of the City Council in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.
Penalty, see § 10.99

§ 130.05 POSTING.

It shall be unlawful for any person, firm, or corporation to use the streets, sidewalks, or public grounds of the municipality for signs, signposts, or the posting of handbills or advertisements without written permission of the City Council. Penalty, see § 10.99

§ 130.06 REMOVING MATERIAL FROM PUBLIC WAYS.

It is hereby declared unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of the street, alley, or public grounds without first having obtained written permission to do so from the

City Council. Penalty, see § 10.99

§ 130.07 SHOPLIFTING.

(A) A person commits the crime of theft by shoplifting when he or she, with the intent of appropriating merchandise to his or her own use without paying for the same or to deprive the owner of possession of the property or its retail value, in whole or in part, does any of the following:

(1) Conceals or takes possession of the goods or merchandise of any store or retail establishment;

(2) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;

(3) Transfers the goods or merchandise of any store or retail establishment from 1 container to another;

(4) Interchanges the label or price tag from 1 item of merchandise with a label or price tag from another item of merchandise; or

(5) Causes the cash register or other sales recording device to reflect less than the retail price of the merchandise.

(B) In any prosecution for theft by shoplifting, in order to allow the owner or owners of shoplifted property the use of that property pending criminal prosecutions, photographs of the shoplifted property may be accepted as *prima facie* evidence as to the identity of the property. The photograph shall be accompanied by a written statement containing the following:

- (1) A description of the property;
- (2) The name of the owner or owners of the property;
- (3) The time, date, and location where the shoplifting occurred;
- (4) The time and date the photograph was taken;
- (5) The name of the photographer; and
- (6) Verification by the arresting officer.

(C) Prior to allowing the use of shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading.

(Neb. RS 28-514) Penalty, see § 10.99

§ 130.08 THROWING SNOWBALLS, ROCKS, AND THE LIKE.

It shall be unlawful for any person to propel or throw any snowball, rock, tomato, or other missile at any real or personal property of any description belonging to another. Penalty, see § 10.99

CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER

Section

- 131.01 Disorderly conduct
- 131.02 (Repealed)
- 131.03 Obstruction of public ways
- 131.04 Obstructing water flow
- 131.05 Curfew; duty of parent or guardian; defenses
- 131.06 Disturbing the peace
- 131.07 Soliciting alms
- 131.08 Menacing; assault
- 131.09 Unlawful loitering
- 131.10 Suppression of nuisances; disorderly houses
- 131.11 Disorderly house; maintaining
- 131.12 Inmate of a disorderly house

§ 131.01 DISORDERLY CONDUCT.

It shall be unlawful for any person with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, to:

- (A) Engage in fighting, threatening, or violent conduct;
 - (B) Use abusive, threatening, or other fighting language or gestures;
 - (C) In a public place, use obscene language or make an obscene gesture or display; or
 - (D) Create a hazardous, physically offensive, or seriously alarming condition by an act which serves no legitimate purpose.
- (Ord. 2801, 9-19-00) Penalty, see § 10.99

§ 131.02 (This Section is reserved)

§ 131.03 OBSTRUCTION OF PUBLIC WAYS.

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to or inconsistent with the public use of the same. Penalty, see § 10.99

§ 131.04 OBSTRUCTING WATER FLOW.

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant. Penalty, see § 10.99

§ 131.05 CURFEW; DUTY OF PARENT OR GUARDIAN; DEFENSES.

(A) It shall be unlawful for any minor under the age of 16 years to loiter, idle, wander, stroll, or play in or upon any of the streets, roads, alleys, or parks of the municipality, or other places of public amusement or recreation therein after the hour of 11:00 p.m. and until the hour of 6:00 a.m. of the following day on Sunday through Saturday.

(B) It shall be unlawful for any parent, guardian, or any adult person having the legal care,

custody, or control of any minor under the age of 16 years to allow or permit that minor to loiter, wander, stroll, idle, or play in or about any of the places designated in division (A) of this section after the hour of 11:00 p.m. and until the hour of 6:00 a.m. of the following day on Sunday through Saturday.

(C) It is a defense to prosecution under divisions (A) and (B) that the minor was:

(1) Accompanied by a parent, guardian, or other adult person having the legal care, custody, or control of that minor;

(2) On an errand at the direction of the minor's parent, guardian, or other adult person having the legal care, custody, or control of that minor and was using a direct route;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity, including but not limited to newspaper delivery, and was using a direct route;

(5) Involved in an emergency;

(6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police officer about the minor's presence;

(7) Attending an official school or religious activity or returning home by a direct route from an official school or religious activity;

(8) Exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(9) Married or had been married or had disabilities of minority removed in accordance with the laws of this state.

(Am. Ord. 2941, 6-20-06) Penalty, see § 10.99

§ 131.06 DISTURBING THE PEACE.

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family, or neighborhood. (Neb. RS 28-1322) Penalty, see § 10.99

§ 131.07 SOLICITING ALMS.

It is hereby declared unlawful for any person to solicit upon the public streets or in any private residences alms, gifts, or contributions for private benefit unless the person so soliciting shall have first secured a permit from the Municipal Clerk authorizing him or her to conduct operations of this type within the corporate limits. Penalty, see § 10.99

§ 131.08 MENACING; ASSAULT.

It is hereby declared unlawful for any person within the corporate limits of this municipality to assault or threaten another in a menacing manner or strike or injure another. Penalty, see § 10.99

§ 131.09 UNLAWFUL LOITERING.

No person, except law enforcement, Fire Department, or other emergency personnel, shall loiter or stand on any public street, so as to impede or obstruct the flow of motor vehicle traffic on the street, and no person shall loiter upon any sidewalk or public right-of-way in a manner that causes alarm to other individuals for the safety of their persons and property. (Ord. 2831, 7-3-01) Penalty, see § 10.99

§ 131.10 SUPPRESSION OF NUISANCES; DISORDERLY HOUSES.

Any room, house, building, structure, or place, and any property kept and used in maintaining the same, where, in violation of the ordinances of the city, unlawful or illegal acts are committed, is hereby declared to be an unreasonable interference with the health, safety, welfare, and property of the citizens of the city, a disorderly house, and a public or common nuisance. Such nuisances may be restrained or suppressed by the city in any manner provided by law, and the City Attorney is hereby authorized and empowered to take such legal action as may be necessary to restrain or suppress such nuisances. (Ord. 2941, 6-20-06)

§ 131.11 DISORDERLY HOUSE; MAINTAINING.

The term "disorderly house" as used in this chapter shall be deemed to be any room, house, building, structure, or premises, where unlawful or illegal acts are being committed. It shall be unlawful for the owner, lessee, resident, manager, or proprietor of any room, house, building, structure, or premises to knowingly collect or permit to be collected therein persons who are engaging in any unlawful act, or to knowingly make, cause, permit, or suffer to be made therein any loud or improper noise to the annoyance or disturbance of any person or neighborhood. (Ord. 2941, 6-20-06)

§ 131.12 INMATE OF A DISORDERLY HOUSE.

It shall be unlawful for any person to be an inmate of or visit or frequent any disorderly house as declared in Section 131.11 with knowledge of, and participation in, the illegal activities occurring therein. (Ord. 2941, 6-20-06)

CHAPTER 132: OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION

Section

- 132.01 Impersonating a public servant
- 132.02 Impersonating a peace officer
- 132.03 Refusing to aid a peace officer
- 132.04 Resisting arrest without the use of a deadly or dangerous weapon
- 132.05 Obstructing a peace officer
- 132.06 Interfering with firefighter
- 132.07 False reporting
- 132.08 Failure to disperse

§ 132.01 IMPERSONATING A PUBLIC SERVANT.

It shall be unlawful for any person falsely to pretend to be a public servant other than a peace officer and perform any act in that pretended capacity. It is no defense that the office the actor pretended to hold did not in fact exist. (Neb. RS 28-609) Penalty, see § 10.99

§ 132.02 IMPERSONATING A PEACE OFFICER.

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity. (Neb. RS 28-610) Penalty, see § 10.99

§ 132.03 REFUSING TO AID A PEACE OFFICER.

It shall be unlawful for any person, upon a request by a person known to that person to be a peace officer, unreasonably to refuse or fail to aid the peace officer in:

(A) Apprehending any person charged with or convicted of any offense against any of the laws of this state or municipality;

(B) Securing the offender when apprehended; or

(C) Conveying the offender to the jail of the county.
(Neb. RS 28-903) Penalty, see § 10.99

§ 132.04 RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON.

(A) This section shall apply only to those actions taken to resist arrest without the use of a deadly or dangerous weapon. It shall be unlawful for any person intentionally to prevent or attempt to prevent a peace officer, acting under color of official authority, from effecting an arrest on that person or on another by:

(1) Using or threatening to use physical force or violence against the peace officer or another;

(2) Using any other means which creates a substantial risk of causing physical injury to the peace officer or another; or

(3) Employing means which require substantial force to overcome resistance to effecting the arrest.

(B) It is an affirmative defense to prosecution under this section that the peace officer involved was out of uniform and did not identify himself or herself as a peace officer by showing credentials to the person whose arrest is attempted.
(Neb. RS 28-904) Penalty, see § 10.99

§ 132.05 OBSTRUCTING A PEACE OFFICER.

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle or intentionally to obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of

official authority, or a police animal assisting a peace officer acting pursuant to the peace officer's official authority. (Neb. RS 28-906) Penalty, see § 10.99

§ 132.06 INTERFERING WITH FIREFIGHTER.

A person commits the offense of interfering with a firefighter if, at any time and place where any firefighter is discharging or attempting to discharge any official duties, the person willfully:

(A) Resists or interferes with the lawful efforts of any firefighter in the discharge or attempt to discharge an official duty;

(B) Disobeys the lawful orders given by any firefighter while performing his or her duties;

(C) Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

(D) Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he or she has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. RS 28-908) Penalty, see § 10.99

§ 132.07 FALSE REPORTING.

(A) It shall be unlawful for any person to:

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

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

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

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

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

(B) A person who violates this section commits the offense of false reporting.
(Neb. RS 28-907) Penalty, see § 10.99

§ 132.08 FAILURE TO DISPERSE.

(A) Whenever a police officer has probable cause to believe that a person or persons are

creating a disturbance of the peace and quiet of any person or neighborhood, such police officer may order said person or persons not residing on the premises to disperse for the purpose of abating the said disturbance.

(B) It shall be unlawful for any person to refuse to comply with a lawful order to disperse given by a police officer in the performance of the officer's duties under this section.
(Ord. 2941, 6-20-06)

CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

General Provisions

- 133.01 Maintaining a nuisance
- 133.02 Appliances in yard
- 133.03 Putting carcass or filthy substance into well, spring, brook, or stream
- 133.04 Prohibited fences
- 133.05 Worthless vegetation
- 133.06 Littering
- 133.07 Raising or producing stagnant water

Substance Offenses

- 133.20 Use of tobacco by minors
- 133.21 Possession of tobacco by minors
- 133.22 Sale of tobacco to minors
- 133.23 Misrepresentation by minor to obtain alcohol
- 133.24 Minors; prohibited acts
- 133.25 Drinking on public property; open beverage container

Motor Vehicle and Highway Offenses

- 133.40 Abandoned automobiles
- 133.41 Shooting highway signs, markers, or notices
- 133.42 Removal and possession of highway signs, markers, or notices
- 133.43 (Repealed)
- 133.44 (Repealed)

Weapons Offenses

- 133.60 Discharge of firearms, slingshots, air guns, and the like

GENERAL PROVISIONS

§ 133.01 MAINTAINING A NUISANCE.

It shall be unlawful for any person to erect, keep up, or continue and maintain any nuisance to the injury of any part of the citizens of the city. (Neb. RS 28-1321(1)) Penalty, see § 10.99

§ 133.02 APPLIANCES IN YARD.

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless the person first removes all doors and makes the same reasonably safe. Penalty, see § 10.99

§ 133.03 PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK, OR STREAM.

It shall be unlawful for any person to put any dead animal, carcass, or part thereof or other filthy substance into any well, or into any spring, brook, or branch of running water, of which use is made for domestic purposes. (Neb. RS 28-1304) Penalty, see § 10.99

§ 133.04 PROHIBITED FENCES.

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where that fence abuts a public sidewalk, street, or alley. Penalty, see § 10.99

§ 133.05 WORTHLESS VEGETATION.

(A) It shall be the duty of every owner or occupant of any lot or piece of ground within the municipality to keep the lot or piece of ground and the adjoining street and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation. It shall be a nuisance to permit, allow, or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation and, if during any calendar year, the city has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner of such lot or piece of ground, it shall be a nuisance to permit, allow, or maintain any growth of 8 inches or more in height of weeds, grasses, or worthless vegetation within that same calendar year on such lots or piece of ground. (Am. Ord. 2988, 12-15-09)

(B) Notice to abate and remove the nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication one time in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed.

(C) Within 5 days after receipt of the notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have the work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for 2 months after the work is done, the city may either:

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

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

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

(Neb. RS 17-563) (Ord. 2525, 2-3-91) (Am. Ord. 2832, 7-17-01; 2894, 9-7-04) Penalty, see § 10.99

§ 133.06 LITTERING.

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

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

(2) The litter is placed in a receptacle or container installed on the property for that purpose.

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

LITTER. Includes all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state, but does not include wastes of primary processes of farming or manufacturing.

WASTE MATERIAL. Any material appearing in a place or in a context not associated with that material's function or origin.

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

(Neb. RS 28-523) (Ord. 2631, 2-21-95) Penalty, see § 10.99

§ 133.07 RAISING OR PRODUCING STAGNANT WATER.

It shall be unlawful for any person to build, erect, continue, or keep up any dam or other obstruction in any river or stream of water in the city and thereby raise an artificial pond or produce stagnant waters which shall be manifestly injurious to the public health and safety. (Neb. RS 28-1303) Penalty, see § 10.99

SUBSTANCE OFFENSES

§ 133.20 USE OF TOBACCO BY MINORS.

It shall be unlawful for any person under the age of 18 years to smoke cigarettes or cigars or to use tobacco in any form whatever. Any minor so charged with the violation of this section may be free from prosecution when the minor shall have furnished evidence for the conviction of

the person or persons selling or giving him or her the cigarettes, cigars, or tobacco. (Neb. RS 28-1418) Penalty, see § 10.99

§ 133.21 POSSESSION OF TOBACCO BY MINORS.

It shall be unlawful for any minor under the age of 18 years to possess or smoke cigarettes or cigars or to use or possess tobacco in any form whatever. (Neb. RS 28-1418) (Ord. 2725, 2-3-98) Penalty, see § 10.99

§ 133.22 SALE OF TOBACCO TO MINORS.

It shall be unlawful for any person to sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, to any minor under 18 years of age. (Neb. RS 28-1419) Penalty, see § 10.99

§ 133.23 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL.

It shall be unlawful for any minor, as defined by Neb. RS 53-103, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age, or by any other method, in any tavern or other place where alcoholic liquor is sold. (Neb. RS 53-180.01) Penalty, see § 10.99

§ 133.24 MINORS; PROHIBITED ACTS.

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

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

(C) It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle.
(Neb. RS 53-180.02) Penalty, see § 10.99

§ 133.25 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.

(A) Except when the State Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over that property. (Neb. RS 53-186)

(B) (1) It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or

on any highway in this municipality.

(2) Except as provided in Neb. RS 53-186, it is unlawful for any person to consume an alcoholic beverage:

- (a) In a public parking area or on any highway in this municipality; or
- (b) Inside a motor vehicle while in a public parking area or on any highway in this municipality.

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

ALCOHOLIC BEVERAGE includes:

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

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

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

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

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

OPEN ALCOHOLIC BEVERAGE CONTAINER. Any bottle, can, or other receptacle:

- (a) That contains any amount of alcoholic beverage; and
- (b) That is open or has a broken seal; or
- (c) The contents of which are partially removed.

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

(Neb. RS 60-6,211.08) (Ord. 2824, 2-6-01) Penalty, see § 10.99

MOTOR VEHICLE AND HIGHWAY OFFENSES

§ 133.40 ABANDONED AUTOMOBILES.

(A) Definitions. For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them:

(1) *Abandoned vehicle*: A motor vehicle:

(a) If left unattended, with no license plates or valid “In Transit” stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;

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

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

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

(e) If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last registered owner under Neb. Rev. Stat. §60-1903.01; or

(f) If removed from private property by the City pursuant to a municipal ordinance. (Am. Ord. No. 2989, 12-15-09)

(2) *Junked motor vehicle*: A motor vehicle on which the engine, wheels or other parts have been removed, altered, damaged or otherwise so treated or allowed to deteriorate that the motor vehicle is incapable of being drawn under its own power. A motor vehicle which has an expired license plate or plates affixed thereto shall be presumed to be a junked motor vehicle; provided, that such presumption may be rebutted.

(3) *Motor vehicle*: A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, motorcycle, tractor and wagon.

(4) *Private property*: Any privately owned property which is not included within the definition of public property.

(5) *Public property*: Any public right-of-way, street, highway, alley, park, or other state, county or municipally owned property.

(B) Abandonment of motor vehicles. It shall be unlawful for any person to abandon any vehicle or cause a vehicle to become an abandoned motor vehicle.

(C) Parked, junked or unregistered motor vehicles.

(1) It shall be unlawful for any person to park, store, leave or permit the parking, storing or leaving of any junked motor vehicle, or parts of a motor vehicle, on private property within the city for a period of time in excess of twenty-one (21) days. It shall be unlawful for any person in charge or control of any private property within the city, whether as owner, tenant, occupant, lessee or otherwise, to allow any motor vehicle which has been unregistered for more than twenty-one (21) days to remain upon any private property. Any motor vehicle allowed to remain on private property in violation of this subsection shall constitute a nuisance and shall be abated.

(2) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, such person shall be fined in a sum not to exceed five hundred dollars (\$500.00), except that each person so convicted shall be fined in a sum not less than one hundred dollars (\$100.00) for the first offense, not less than one hundred fifty dollars (\$150.00) for the second offense, and not less than two hundred dollars (\$200.00) for the third offense and each offense thereafter. Each day that a violation of any of the provisions of this section continues shall constitute a distinct offense and shall be punishable as such.

(D) Exception for enclosures and screening. Section C shall not be construed to prohibit any person from storing junked or unregistered motor vehicles, or parts of a motor vehicle, upon private property when completely enclosed within a building. Section C shall not be construed to prohibit any person from storing up to two (2) junked or unregistered motor vehicles upon private property when screened from view by a solid fence or wall.

(E) Exception in business. Nothing in this article shall be construed to apply to any motor vehicle in connection with a lawful business enterprise, operating in an appropriate commercial or industrial zoning district.

(F) Junked motor vehicles on city property. No person shall leave any junked motor vehicle on public property within or without the corporate limits in excess of forty-eight (48) hours.

(G) Impoundment. The chief of police is hereby authorized to remove or have removed any vehicle left on public property within the corporate limits which reasonably appears to be an abandoned vehicle. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with the provisions of this article.

(H) Abandoned motor vehicle; value of \$250.00 or less; title vests in city. If an abandoned vehicle at the time of abandonment has no license plates of the current year affixed or valid In Transit decals issued pursuant to section 60-230 of the Nebraska Revised Statutes affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of two hundred fifty dollars (\$250.00) or less, title shall immediately vest in the city.

(I) Police Department; duties.

(1) Except vehicles governed by section H, the Police Department shall make an inquiry as follows, concerning the last registered owner of each abandoned vehicle in its custody:

(a) An abandoned vehicle with license plates affixed, to the jurisdiction that issued such number plates; or

(b) An abandoned vehicle with no license plates affixed, to the state department of motor vehicles.

(2) The Police Department shall notify the last registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either (a) it will be sold or will be offered at public auction after five (5) days from the date such notice was mailed; or (b) title will vest in the city thirty (30) days after the date such notice was mailed. If the agency described in subsection (1)(a) or (b) of this section also notifies the Police Department that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. Notice required by this subsection shall be either by personal service or

by United States registered mail, return receipt required.

(3) Title to such abandoned vehicle, if unclaimed, shall vest in the city (a) five (5) days after the date the notice is mailed if the vehicle will be sold or will be offered at public auction under subsection (2) of this section; (b) thirty (30) days after the date the notice is mailed if the city will retain the vehicle; or (c) if the last registered owner cannot be ascertained, when notice of such fact is received.

(4) If the Police Department has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, then the Police Department shall send a certified letter to each of the last registered owners stating that the vehicle is in the custody of the Police Department, that the vehicle is no longer needed for law enforcement purposes, and that after thirty (30) days the city will dispose of the vehicle. This subsection shall not apply to motor vehicles subject to forfeiture under Section 28-431 of the Nebraska Revised Statutes. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this subsection unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the Police Department took the vehicle into custody. If a registered owner or person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

(J) Disposition. After title to the abandoned vehicle vests pursuant to state law in the city, the city may retain for use, sell, or auction the abandoned vehicle. If the Police Department has determined that the vehicle should be retained for use, the city shall at the time that the notice, if any, is mailed, publish in a newspaper of general circulation in the city an announcement that the city intends to retain the abandoned vehicle for its use and that title will vest in the city thirty (30) days after the publication. Any proceeds from the sale of the abandoned vehicle, less any expenses incurred by the city shall be held by the city without interest, for the benefit of the owner of such vehicle, for a period of two (2) years. If not claimed within such two (2) year period, such proceeds shall be paid into the general fund of the city.

(K) Costs of removal and storage. The last registered owner of an abandoned vehicle shall be liable to the city for the costs of removal and storage of such vehicle.

(L) Liability for removal. Neither the owner, lessee, nor occupant of the premises for which any abandoned vehicle shall be removed, nor the State of Nebraska, nor the city shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the city or as a result of any subsequent disposition.
(Ord. No. 2937, 6-12-07)

§ 133.41 SHOOTING HIGHWAY SIGNS, MARKERS, OR NOTICES.

It shall be unlawful for any person willfully or maliciously to shoot upon the public highway and injure, deface, damage, or destroy any signs, monuments, road markers, traffic-control or surveillance devices, or other public notices lawfully placed upon the highways. (Neb. RS 60-6,130(1)) Penalty, see § 10.99

§ 133.42 REMOVAL AND POSSESSION OF HIGHWAY SIGNS, MARKERS, OR NOTICES.

It shall be unlawful for any person, other than those authorized to do so, to remove any sign, traffic-control, or traffic surveillance device placed along a public street, road, or highway for traffic control, warning, or informational purposes. Moreover, it shall be unlawful for any person to possess such a sign or device which has been removed in violation of this section. (Neb. RS 60-6,130(3)) Penalty, see § 10.99

§ 133.43 (This Section is reserved)

§ 133.44 (This Section is reserved)

WEAPONS OFFENSES

§ 133.60 DISCHARGE OF FIREARMS, SLINGSHOTS, AIR GUNS, AND THE LIKE.

It shall be unlawful for any person to discharge within the city limits any firearm or airgun, BB gun, slingshot, bow and arrow, or any other air, gas, or spring-operated gun, weapon, apparatus, or instrument for the purpose of throwing or projecting any bullet, projectile, object, or missile within the city limits, except in a regularly established shooting gallery; provided, that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his or her duty, to prohibit any citizen from discharging a firearm when lawfully defending a person or property, nor to prohibit the operation of any range supervised and maintained by the state or any political subdivision thereof, when it is connected with an educational or training program and upon property owned or leased by the state or a subdivision or agency thereof or to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Ord. 2802, 9-19-00) Penalty, see § 10.99

CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS

Section

- 134.01 Prostitution
- 134.02 Public indecency
- 134.03 Gambling
- 134.04 Public nudity; unlawful
- 134.05 Urination or defecation in public prohibited
- 134.06 Sex offender; findings and intent
- 134.07 Sex offender; definitions
- 134.08 Sex offender; residence prohibition; penalties; exceptions
- 134.09 Sex offender; property owners prohibited from renting to certain sex offenders; penalties
- 134.10 Violation

§ 134.01 PROSTITUTION.

It shall be unlawful for any person to perform, offer, or agree to perform any act of sexual penetration, as defined in Neb. RS 28-318, with any person not his or her spouse in exchange for money or other things of value. (Neb. RS 28-801) Penalty, see § 10.99

§ 134.02 PUBLIC INDECENCY.

It shall be unlawful for any person, 18 years of age or over, to perform or procure or assist any other person to perform in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

- (A) An act of sexual penetration as defined by Neb. RS 28-318(6);
 - (B) An exposure of the genitals of the body with intent to affront or alarm any person; or
 - (C) A lewd fondling or caressing of the body of another person of the same or opposite sex.
- (Neb. RS 28-806) Penalty, see § 10.99

§ 134.03 GAMBLING.

- (A) For purposes of this section, the definitions found in Neb. RS 28-1101 shall be used.
- (B) It shall be unlawful for any person to:
 - (1) Engage in bookmaking;
 - (2) Receive money in connection with any unlawful gambling scheme; or
 - (3) Knowingly participate in any unlawful gambling as a player by placing a bet. (Neb. RS 28-1102 through 28-1104)
- (C) It shall be unlawful for any person to manufacture, sell, transport, place, possess, or conduct or negotiate any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing that it shall be used in the advancement of unlawful gambling activity.
(Neb. RS 28-1107)

§ 134.04 PUBLIC NUDITY; UNLAWFUL.

- (A) It shall be unlawful for a person to, knowingly or intentionally, in a public place or in any place open to the public, appear in a state of nudity.
- (B) “Nudity” means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering on any part of the areola and nipple, or the showing of covered male genitals in a discernibly turgid state.
- (C) This section shall not apply to:
 - (1) Any theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibit or performance;
 - (2) Any dressing/changing room or restroom facility open to the public;

(3) Any person under twelve years of age; or

(4) Mothers who are breastfeeding.

(Ord. 2941, 6-20-06)

§ 134.05 URINATION OR DEFECATION IN PUBLIC, PROHIBITED.

(A) It shall be unlawful for any person to urinate or defecate on a public street, alley, or any other property, public or private, open to or visible to the public.

(B) This section shall not apply to urinating or defecating in any restroom facility in a manner for which that facility was designed.

(Ord. 2941, 6-20-06)

§ 134.06 SEX OFFENDER; FINDINGS AND INTENT.

(A) Repeat sex offenders who use physical violence and prey on children are sexual predators who present an extreme threat to the public safety. Sex offenders are extremely likely to use physical violence or to repeat their offenses. And most sex offenders commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, extremely exorbitant.

(B) It is the intent of this ordinance to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sex offenders and sexual predators are prohibited from establishing temporary or permanent residence.

(Ord. 2935, 6-6-06)

§ 134.07 SEX OFFENDER; DEFINITIONS.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

SEX OFFENDER shall be anyone defined in the Sex Offender Registration Act (Sections 29-4001 to 29-4713, inclusive, Neb. Rev. Stat.) or any amendments thereto.

PERMANENT RESIDENCE shall mean a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

TEMPORARY RESIDENCE shall mean a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

(Ord. 2935, 6-6-06)

§ 134.08 SEX OFFENDER RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS.

(A) *Prohibited location of residence.* It is unlawful for any person who is subject to the Sex Offender Registration Act to establish a permanent residence or temporary residence within 500 feet of any school or licensed day care center.

(B) *Measurement of distance.* For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of a school or licensed day care center.

(C) *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$500.00.

(D) *Exceptions.* A person residing within 500 feet of any school or licensed day care center does not commit a violation of this section if any of the following apply:

(1) The person resides within a prison, correctional facility or treatment facility operated by the state or a political subdivision;

(2) The person established a residence before July 1, 2006, and has not moved from that residence; and,

(3) The school or licensed day care center within 500 feet of the person's permanent or temporary residence was opened after the person established the permanent residence or temporary residence.

(Ord. 2935, 6-6-06)

§ 134.09 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEX OFFENDERS; PENALTIES.

(A) It is unlawful to let or rent any place, structure, or part thereof, trailer, or other conveyance, with the knowledge that it will be used as a permanent residence or a temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, trailer or other conveyance is located within 500 of any school or day care center, park.

(B) A property owner's failure to comply with the provisions of this section shall constitute a violation of this section, and shall subject the property owner to a fine of \$500.00 and the City may seek any other relief as otherwise provided by law.

(Ord. 2935, 6-6-06)

§ 134.10 VIOLATION.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this ordinance shall be deemed to have committed a new violation every twenty-four (24) hours of such failure to comply.

(Ord. 2935, 6-6-06)