

TITLE XIII: GENERAL OFFENSES

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§ 130.01 CRIMINAL MISCHIEF.

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

- (1) Intentionally or recklessly damages or destroys any property of any kind belonging to another ("property"), including but not limited to, any real or personal, property, tomb, grave, monument, gravestone or tree, any property located upon any government property or cemetery, or any property of historical, local, state, or national significance;
- (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) Unless a penalty is otherwise provided in applicable state statute or in another chapter or section of this code with respect to a particular violation:

- (1) Criminal mischief is a Class IV felony if the actor intentionally or maliciously causes pecuniary loss of \$5,000 or more, or a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public service.
- (2) Criminal mischief is a Class I misdemeanor if the actor intentionally or maliciously causes pecuniary loss of \$1,500 or more but less than \$5,000.

(3) Criminal mischief is a Class II misdemeanor if the actor intentionally or maliciously causes pecuniary loss of \$500 or more but less than \$1,500.

(4) Criminal mischief is a Class 111 misdemeanor if the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than \$500 or if his or her action results in no pecuniary loss, or a loss to which a pecuniary value cannot be determined with reasonable certainty. (Am. Ord. 1278, passed 4-5-16)

Statutory reference:

Criminal mischief prohibited, see Neb. RS 28-519

Criminal trespass, see Neb. RS 28-520 and 28-521

§ 130.02 ABANDONED AUTOMOBILES.

(A) (1) It shall be unlawful to abandon any automobile on the city streets, highways, alleys, parks or other property.

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

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

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

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

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

5. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under Neb. RS 60-1903.01; or

6. If removed from private property by the city pursuant to a city ordinance or this code.

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

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

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

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

4. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under Neb. RS 60-1903.01; or

5. If removed from private property by the city pursuant to a city ordinance or this code.

(c) A mobile home is an **ABANDONED VEHICLE**: if applicable provisions of Neb. RS 60-1901 are satisfied.

(d) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an **ABANDONED VEHICLE** under this division (A).
(Neb. RS 60-1901)

(2) The title to any automobile so abandoned which at the time of such abandonment has no number plates of the current year affixed and is of a wholesale value, taking into consideration the condition of such vehicle, of \$250 or less, shall immediately vest in the city. In the event the automobile is licensed for the current year or is of a wholesale value of over \$250, the city police shall make a reasonable effort to contact the owner of the said automobile by sending a notice to the registered owner, if known; by sending an inquiry to the county it is registered in, if the owner is unknown; or by contacting the Director of Motor Vehicles, if the car is without license plates and the owner is unknown. If notified by the Director of Motor Vehicles that a lien or mortgage exists on said vehicle, notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. If the owner, lienholder or mortgagee is known and does not claim the automobile within five days after the date when the notice was mailed or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the city and the automobile may be sold. Any proceeds from the sale of the automobile less any expenses incurred by the city in such sale shall be held without interest for the benefit of the owner of such vehicle for a period of two years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund.
(Neb. RS 60-1902 and 60-1903)

(3) For purposes of this section:

(a) **MOBILE HOME** shall have the meaning specified in Neb. RS 60-1901;

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(b) **PUBLIC PROPERTY** shall mean any public right-of-way, street, highway, alley, park or other state, county or city-owned property; and

(c) **PRIVATE PROPERTY** shall mean any privately-owned property which is not included within the definition of public property.
(Neb. RS 60-1901)

(d) **TRESPASSING VEHICLE** shall mean a vehicle that is parked without permission on private property that is not typically made available for public parking.

(4) Any person who causes an abandoned vehicle as hereinbefore defined shall be deemed to be guilty of an offense.
(79 Code, § 6-330)

(B) The Police Department shall be charged with the responsibility of enforcing the provisions of this section and Neb. RS Chapter 60, Article 19 pertaining to abandoned motor vehicles, within the corporate limits of the city.
(79 Code, § 6-331)

(C) The Police Department shall retain for a period of at least five years a record of all pertinent data for each abandoned vehicle disposed of and shall make such reports to the Director of Motor Vehicles as shall be required by law.
(79 Code, § 6-332)

(D) For the purposes of this section and Neb. RS 60-1902, should the Police Department determine that an abandoned motor vehicle has a wholesale value of \$250 or less, such determination shall be supported by such of the following as shall be appropriate:

(1) If the "Blue Book" wholesale value of automobiles of the same make, model, year, equipment and general condition as said automobile is less than \$250, a statement as to said "Blue Book" value at date of pickup of the abandoned automobile shall be entered in the file pertaining to same.

(2) If the "Blue Book" wholesale value is more than \$250 and the Police Department shall determine that the wholesale value is less than \$250, such determination shall be further supported by:

(a) A statement as to the "Blue Book" wholesale value at date of pickup;

(b) Photograph or photographs showing the condition of the vehicle at date of pickup;

(c) Appraisal by a licensed automobile dealer stating the value of said automobile to be \$250 or less.
(79 Code, § 6-333)

(E) (1) The Police Department pursuant to Neb. RS 60-1903.02 is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the applicable procedures of Neb. RS 60-1902 and 60-1903.

(2) The Police Department pursuant to Neb. RS 60-1903.02 is authorized to contact a private towing service in order to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. A vehicle towed away under this division is subject to applicable provisions of Neb. RS 52-601.01 through 52-605 and 60-2410 by the private towing service which towed the vehicle.

(3) A private property owner in the city is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within twenty-four hours, the Police Department pursuant to Neb. RS 60-1903.02 and provide the registration plate number, the vehicle identification number, if available, the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle towed away under this division is subject to Neb. RS 52-601.01 through 52-605 and 60-2410 by the private towing service that towed the vehicle.

(‘79 Code, § 6-333) (Ord. 172, passed - -; Am. Ord. 1122, passed 4-20-10; Am. Ord. 1356, passed 7-2-19) Penalty, see § 10.99

Statutory reference:

Additional regulations, see Neb. RS 60-1901 through 60-1911

§ 130.03 INJURY TO TREES.

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. 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 to do so, and the written permit of the city in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. Public service companies receiving permission from the city to trim or cut down trees on private property will be required to give notice to property owners that the trimming and/or tree removal will take place.

(‘79 Code, § 6-305) Penalty, see § 10.99

Statutory reference:

Criminal mischief prohibited, see Neb. RS 28-519

Cross-reference:

Dead or diseased trees declared a nuisance, see § 92.21

Dead or diseased tree removal, see § 94.07

§ 130.04 FIRE EQUIPMENT; FIRE HOSE.

(A) It shall be unlawful for any person who is not an active member of the City Fire Department to deface, destroy, handle or loiter about the equipment and property of the Fire Department. ('79 Code, § 6-306)

(B) It shall be unlawful for any person, without the consent of the Fire Chief or the Assistant Fire Chief, to drive any vehicle over the unprotected hose of the Fire Department at any time. (Neb. RS 60-6,184) ('79 Code, § 6-307)
Penalty, see § 10.99

Statutory reference:

Criminal mischief prohibited, see Neb. RS 28-519

§ 130.05 TRASH.

It shall be unlawful for any person to willfully, maliciously or negligently place or throw upon the premises of another any filth, garbage, or other matter to the annoyance of the owner or occupant thereon.

('79 Code, § 6-308) Penalty, see § 10.99

Statutory reference:

Littering prohibited, see Neb. RS 28-523

§ 130.06 POSTED ADVERTISEMENTS; POSTING.

(A) It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove or cover up the posted advertisement or bill of any person, firm or corporation when said bill or advertisement is rightfully and lawfully posted and the same remains of value.

('79 Code, § 6-311)

(B) It shall be unlawful for any person, firm or corporation to use the streets, sidewalks or public grounds of the city for signs, signposts, the posting of handbills or advertisements without written permission of the city.

('79 Code, § 6-312) Penalty, see § 10.99

Statutory reference:

For related provisions on the distribution of handbills, see § 111.03

§ 130.07 WINDOW PEEPING.

It shall be unlawful for any person to go upon the private premises of another to look or peep into any window, door or other opening in a building occupied by any other person.

('79 Code, § 6-322) Penalty, see § 10.99

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

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

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

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

(Neb. RS 28-523) ('79 Code, § 3-323) (Am. Ord. 631, passed 9-19-95) Penalty, see § 10.99

§ 130.09 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.

('79 Code, § 6-325) Penalty, see § 10.99

Statutory reference:

Authority to prevent nuisances, Neb. RS 17-207 and 18-1720

Nuisances prohibited by state law, Neb. RS 28-1321

Section

- 131.01 Open container
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CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER

§ 131.01 OPEN CONTAINER.

It shall be unlawful for any person to consume, possess, or have under their control open alcoholic beverages in the public streets, alleys, roads, highways or upon any property owned by the city, state or other governmental subdivision of the state, inside vehicles while upon the public streets, alleys, roads, highways or other public property of the city, state or any governmental subdivision of the state within the city's boundaries, or upon premises of any theaters, dance halls, restaurants, clubs, cafes or any other place open to the general public, except that the provisions of this section shall not apply if the consumption, possession or control is lawful in accordance with a validly issued liquor license or otherwise permitted in accordance with the Nebraska Liquor Control Act.

(‘79 Code, § 6-309) (Am. Ord. 279, passed 11-18-80; Am. Ord. 1166, passed 1-17-12) Penalty, see § 10.99

Statutory reference:

Similar provisions, see Neb. RS 53-186, 53-186.01, and 60-6,211.08

§ 131.02 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) (‘79 Code, § 6-317) Penalty, see § 10.99

§ 131.03 DISORDERLY CONDUCT.

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the city by clamor or noise, intoxication, drunkenness, fighting or using of obscene or profane language in the streets or other public places or which is otherwise indecent or disorderly conduct or lewd or lascivious behavior.

('79 Code, § 6-318) (Am. Ord. 637, passed 12-19-95) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 16-228

§ 131.04 DISTURBING AN ASSEMBLY.

It shall be unlawful for any person or persons to disturb, interrupt or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior or indecent and shocking behavior. Any person or persons so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with state statute.

('79 Code, § 6-320) Penalty, see § 10.99

Statutory reference:

Municipal authority, see Neb. RS 16-227 and 16-254

§ 131.05 PARADES, PROCESSIONS AND PUBLIC ASSEMBLIES.

(A) *Definitions.* For purposes of this section **PUBLIC WAY** when used as a noun shall mean any street, alley, boulevard, parkway, highway, sidewalk or other thoroughfare, and **PUBLIC PLACE** when used as a noun shall mean any public way, park, cemetery, school yard or open space adjacent thereto; any public lake or stream; and any place or business open to the use of the public in general, open to public view or to which the public has access.

(B) *Permit Required.* No parade or procession shall be allowed upon any street or public way, nor shall any open-air public assembly be held upon any street, public way or other public place, in the city until a permit in writing therefor shall be obtained from the City Clerk.

(C) *Application for Permit.* Written application for a permit in a form prescribed by the City Clerk and required by the provisions of this section shall be made to the City Clerk by the person in charge or control or responsible for such parade, procession or assembly no less than 30 calendar days prior to the date of the scheduled event. The application shall include but shall not be limited to:

- (1) The name and contact information of the person or organization of the applicant.

- (2) The purpose of the proposed activity.
- (3) The time of starting and the proposed duration thereof.
- (4) A reasonable estimation of the number of expected participants.
- (5) For a parade or procession, the route along which the same is to proceed.

(D) *Investigation Prior to Issuance of Permit.* Upon application being made for a permit required by the provisions of this section, the Chief of Police shall investigate the same.

(E) *Standards for Issuance of Permit.* The City Clerk shall issue a permit as provided for under this section when, from a consideration of the application, a recommendation of the Chief of Police and from any other information as may otherwise be obtained, he/she finds that:

- (1) The conduct of the proposed activity will not substantially interrupt the safe and orderly movement of other traffic to its route.
- (2) The conduct of the proposed activity will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city.
- (3) The conduct of the proposed activity will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed activity.
- (4) The concentration of persons, animals and vehicles at assembly points of the parade or at the site of the proposed activity will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to those assembly areas or sites.
- (5) The conduct of the proposed activity will not interfere with the movement of firefighting equipment en route to a fire.
- (6) The conduct of the proposed activity is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance.
- (7) If a parade or procession that it is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.
- (8) The proposed activity is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

(F) *Granting or Denial or Permit.* The Chief of Police shall make a recommendation upon the application for a parade/assembly permit within ten working days after the filing thereof. If the application is not approved the City Clerk shall mail to the applicant, within 12 working days after the date upon which the application was filed, a notice of his/her action stating the reasons for denial of the permit.

(G) *Fee.* The permit fee for holding a public assembly within the city shall be such amount as set from time to time by the Mayor and City Council, and a current record of such amount shall be maintained by the City Clerk.

('79 Code, § 6-321) (Am. Ord. 888, passed 12-17-02) Penalty, see § 10.99

Statutory reference:

Municipal authority, see Neb. RS 16-227 and 16-254

§ 131.06 STREET GAMES.

It shall be unlawful for any person to play catch, bat a ball, kick or throw a football or to engage in any exercise or sport upon the city streets and sidewalks. Nothing herein shall be construed to prohibit or prevent the City Council from ordering from time to time certain streets and public places blocked off for the purpose of providing a safe area to engage in such exercise and sport.

('79 Code, § 6-326) (Am. Ord. 452, passed 11-17-87) Penalty, see § 10.99

§ 131.07 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.

('79 Code, § 6-327) Penalty, see § 10.99

Statutory reference:

Penalties for injuring or obstructing roads, Neb. RS 39-301 and 39-302

§ 131.08 CURFEW.

(A) It shall be unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll or play in or upon any of the streets, roads, alleys or parks of the city or other places of public amusement or recreation therein after the hour of 10:00 p.m. and until the hour of 5:00 a.m., seven days per week.

(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 18 years to allow or permit such 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 10:00 p.m. and until the hour of 5:00 a.m., seven days per week.

(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 such 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 such 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 United States 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 the state of Nebraska.
(‘79 Code, § 6-334) Penalty, see § 10.99

§ 131.09 LOUD, UNNECESSARY NOISES.

(A) *Findings.* It is found and declared that:

(1) The making, creation or maintenance of noises or sounds that are unreasonably loud, raucous, jarring, disturbing or a nuisance are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of this city.

(2) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of this city.
(79 Code, § 6-338)

(B) *Unlawful to make, continue.* It shall be unlawful for any person to create, assist in creating, permit, cause, continue or permit the continuance of any sound or noise that is unreasonably loud, raucous, jarring, disturbing or a nuisance within the limits of the city. The term ***DISTURBING*** as used in this section shall mean actual or imminent interference with peace or good order.
(79 Code, § 6-339)

(C) *Enumeration; exceptions.*

(1) *Enumerations.* The following sounds or noises, among others, are declared to be unreasonably loud, raucous, jarring, disturbing or a nuisance in violation of this code, but such enumeration shall not be deemed to be exclusive, namely:

(a) *Horns, signaling devices and the like.* The sounding of any horn, whistle or other signaling device on any automobile, truck, motorcycle or other vehicle on any private, residential or commercial property or any public property, including any street or public place of the city, except as a danger warning or a signal for help; the creation by means of any such signaling device of any sound that is unreasonably loud, raucous, jarring, disturbing or a nuisance; the sounding of any such signaling device for an unreasonable period of time; the use of any such signaling device when traffic is, for any reason, held up; the use of any such signaling device except one operated by hand or electricity; and, the use of any such signaling device operated by engine exhaust.

(b) *Radios, phonographs, stereos, bass amplifiers and musical instruments.* Using, operating or permitting to be played, used or operated, any radio, tape recorder, cassette player, compact disc (C.D.) player, musical instrument, phonograph, loud speaker, sound amplifier or other machine, apparatus or device for the producing, reproducing or amplifying of the human voice or of any sound:

1. Upon residential property or within a residential neighborhood, whether containing one or more units of multiple-family residential dwellings or a single-family residential dwelling, and upon property containing a hotel, motel or inn, unless the volume of such sound shall be so controlled that:

a. It will not be plainly audible at a distance of 50 feet from any building, structure, chamber or vehicle in which such machine, apparatus or device is located; and

b. In the case of a multiple-family residential dwelling, a hotel, motel or inn, it will not be plainly audible in any adjoining unit. Provided, however, that actual notice from an occupant of the adjoining unit to the occupant of the property containing the source of amplified sound shall be a necessary element of a violation under this division.

2. Upon any private property that is nonresidential and that is not located within a residential neighborhood, upon any public property, including any public street, highway, building, sidewalk, park or thoroughfare or in or upon any motor vehicle on such private or public property, unless in each such instance the volume of such sound shall be so controlled that it will not be plainly audible for a distance in excess of 100 feet from the source.

(c) *Exhaust.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which is properly maintained and in good working condition and which will effectively prevent any noise that is unreasonably loud, raucous, jarring, disturbing or a nuisance.

(d) *Animals, birds and the like.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person or resident.

(e) *Yelling, shouting, hooting, whistling and singing.* Yelling, shouting, hooting, whistling and singing or making other verbal noises on the public streets or public areas or from private property between the hours of 10:00 p.m. and 6:00 a.m. so as to be plainly audible at a distance of 50 feet from the public area or private property from which such noise emanates.

(f) *Pile drivers, hammers, blowers, construction equipment and the like.* The operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, blower, power fan or other power tools whether air, electric or gasoline powered, unless the sound produced thereby shall be so controlled that it is not plainly audible for a distance in excess of 100 feet from the source; and the operation of any internal combustion engine, unless such engine is equipped with a muffler device used and maintained in accordance with the manufacturer's specifications.

(2) *Exemptions.* The following activities are exempt from the application of this section:

(a) Devices used solely for the purpose of warning, protecting or alerting the public, or some segment thereof, of the existence of an emergency situation;

(b) Construction operation for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of the government; provided that all equipment is operated in accordance with manufacturers' specifications and with all standard equipment, manufacturers' mufflers and noise reducing equipment in use and in proper operating condition. However, such exception shall apply only to construction operations between the hours of 7:00 a.m. and dusk Monday through Sunday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three days while the emergency continues and which permit may be renewed for periods of three days while the emergency continues. If the Building Inspector shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m. and /or Sunday, and if he or she shall further determine that hardship would result to any party in interest if permission is not granted, he or she may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. and or on Sunday upon application being made at the time the permit for the work is awarded or during the progress of work;

(c) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches;

(d) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting or operating within the scope of the authority of said agency or as is necessary for the safety of the public in time of emergency;

(e) Operations by city departments;

(f) Sound emanating from duly licensed and/or authorized athletic contests, parades and city-sponsored public celebrations;

(g) Noises emanating from industrial facilities operating in industrial zoned areas of the city, provided that such noises are incidental to the normal operations of such facility and further provided that such facility is operating in accordance with all city, state and federal codes, statutes, regulations, special use permits and other enforceable orders;

(h) Noises of lawn care equipment in normal usage between the hours of 6:00 a.m. and 10:00 p.m. if used and maintained in accordance with the manufacturers' specifications;

(i) Except as set forth in division (C)(1), motor vehicles on public roads, but this section is not intended and shall not be construed to interfere with the enforcement of § 70.039 or any other city, state or federal statute, regulation, ordinance, code or like regulations of motor vehicles;

(j) Noises of aircraft, railroad trains, transit buses, school buses and other publicly-owned and/or operated transportation vehicles;

(k) Operations by, or sanctioned by, the proper authorities (city, state or federal) for the protection of persons or property where imminent physical trauma or property damage demands immediate action;

(l) Noises emanating from an event center in accordance with a current conditional use permit from the City of La Vista, subject to the following conditions:

1. A curfew shall exist during which time no outdoor amplified sound shall be permitted. The curfew shall have the following beginning and ending times:

<i>Day of the Week</i>	<i>Beginning</i>	<i>Ending</i>
Sunday through Thursday	10:00 pm	8:00 am the following day
Friday and Saturday	10:30 pm	8:00 am the following day

2. Amplified sound shall mean any sound, the volume of which is increased by, or by use of, any equipment or device designed for such purpose; and

(m) City, community, or other events conducted or authorized by the city.
 ('79 Code, § 6-340) (Am. Ord. 762, passed 2-16-99; Am. Ord. 1413, passed 2-16-21) Penalty, see § 10.99

Section

132.01 Resisting officer

CHAPTER 132. OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION

§ 132.01 RESISTING OFFICER.

It shall be unlawful for any person to resist any city police officer when such officer is in the lawful performance of his or her duties.

(‘79 Code, § 6-301) Penalty, see § 10.99

Statutory reference:

Similar provisions, see Neb. RS 28-906

§ 132.02 INTERFERING WITH OFFICER/CITY OFFICIAL.

It shall be unlawful for any person to interfere with the official duties of any city official, employee, or agent or any public safety personnel, such as police officers, firefighters, or rescue personnel, or with any police animal assisting any peace officer acting pursuant to the peace officer’s official authority.

(‘79 Code, § 6-302) (Am. Ord. 1188, passed 1-15-13) Penalty, see § 10.99

Statutory reference:

Similar provisions, see Neb. RS 28-906

Section

- 133.01 Stagnant waters, weeds, and litter
- 133.02 CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY
- 133.03 Use of certain toxic vapors or fumes
- 133.04 Sale of intoxicants prohibited
- 133.05 Tobacco; prohibited to persons under 21 years of age

§ 133.01 STAGNANT WATERS, WEEDS, AND LITTER.

(A) Lots or pieces of ground within the city or within the city's extraterritorial zoning jurisdiction shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction shall keep the lot or piece of ground and the adjoining streets and alleys free of any excessive growth of weeds, grasses, or worthless vegetation. **EXCESSIVE GROWTH** for purposes of this section shall include without limitation, 12 inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any excessive growth of weeds, grasses, or worthless vegetation on any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense as provided by Nebraska Statutes.

(F) (1) The city shall, during the month of April of each year, publish or cause to be published in one or more newspapers of general circulation within the city a general notice setting forth the requirements of this section.

(2) (a) In addition to the above general notice, upon determination by the Chief Building Official, Code Enforcement Officer, or other proper city representative that the owner or occupant has failed to keep such real estate free of nuisances, notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service, first class mail or certified mail. Such notice shall include the information and shall be given in the manner required by § 92.17 of this Code. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the City Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the City Administrator or any other appointed officer of the city from time to time designated by the City Administrator, Mayor or City Council. Notice of the hearing will be provided in the manner described in § 92.17 of this Code. The hearing officer, based on all information presented at the hearing, shall render a decision of the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done. If the owner or occupant of the lot or piece of ground within five days after receipt of such notice does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance within the required time, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either:

1. Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefitted as a special assessment; 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.

(b) Unless otherwise specified by applicable law, notice for purposes of this section shall be deemed to be received upon deposit in the United States mail, postage prepaid, if by first-class mail, or upon actual receipt, if by personal service or certified mail.

(3) Notwithstanding any other provision of the Code to the contrary, at all times thereafter until new growth of the following year, the city shall have the right, without providing further notice to such owner, agent, occupant, tenant or person in possession, charge or control of such lot or ground, to continue cutting and/or removing from such lot or ground all litter or excessive growth of weeds or grass or worthless vegetation.

(G) For purposes of this section:

(1) **LITTER** includes, but is not limited to:

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

- (b) Wood, plaster, cement, brick, or stone building rubble;
- (c) Grass, leaves, and worthless vegetation;
- (d) Offal and dead animals; and

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

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

(3) **WEEDS, GRASSES, and WORTHLESS VEGETATION** does not include vegetation applied or grown on a lot or piece of ground outside the corporate limits of the city but inside the city's extraterritorial zoning jurisdiction expressly for the purpose of weed or erosion control, as determined to the satisfaction of the City Engineer.

('79 Code, § 6-328) (Ord. 147, passed - -; Am. Ord. 450, passed 9-15-87; Am. Ord. 547, passed 6-16-92; Am. Ord. 938, passed 8-17-04; Am. Ord. 1256, passed 7-7-15; Am. Ord. 1357, passed 7-2-19) Penalty, see § 10.99

Statutory reference:

Municipal authority; notice and hearing requirements, see Neb. RS 16-230

Additional authority to regulate nuisances, see Neb. RS 18-1720

Cross reference:

Nuisances; definition, see § 92.15

§ 133.02 HITCHING RIDES.

It shall be unlawful for any person to be found soliciting trucks, automobiles or other vehicles to stop or slow down for the purpose of asking for a ride or riding on the said vehicle.

('79 Code, § 6-329) Penalty, see § 10.99

Statutory reference:

Similar provisions, see Neb. RS 60-6,157

§ 133.03 USE OF CERTAIN TOXIC VAPORS OR FUMES.

No person shall breathe, inhale or drink any compound, liquid or chemical containing acetate, acetone, benzene, butyl alcohol, cyclohexanone, ethyl acetate, ethyl alcohol, ethylene dichloride, ethylene trichloride, hexane, isopropanol, isopropyl alcohol, methyl alcohol, methyl cellosolve acetate, methyl ethyl ketone, methyl isobutyl ketone, pentachlorophenol, petroleum ether, toluene, toluol, trichloroathane, trichloroethylene or any other substance for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis, inebriation, excitement or irrational behavior or in any manner changing, distorting or disturbing the auditory, visual, mental or nervous processes. For the purposes of this section, any such condition so induced shall be deemed an intoxicated condition. (Neb. RS 28-419) ('79 Code, § 6-336) (Ord. 93, passed - -) Penalty, see § 10.99

§ 133.04 SALE OF INTOXICANTS PROHIBITED.

No person shall knowingly sell or offer for sale, deliver or give to any person any compound, liquid or chemical or any other substance which will induce an intoxicated condition as defined in § 133.03, when the seller, offerer or deliverer knows or has reason to know that such compound is intended for use to induce such condition. Sections 133.03 and 133.04 shall not apply to the use or sale of such substances, as therein defined, when such use or sale is administered or prescribed for medical or dental purposes, nor shall §§ 133.03 and 133.04 apply to the use or sale of alcoholic liquors. (Neb. RS 28-420 and 28-421) ('79 Code, § 6-337) (Ord. 93, passed - -) Penalty, see § 10.99

§ 133.05 TOBACCO; PROHIBITED TO PERSONS UNDER 21 YEARS OF AGE.

It shall be unlawful for any person under 21 years of age to possess, smoke, use, buy, acquire, or attempt to buy or acquire alternative nicotine products, electronic nicotine delivery systems, or tobacco of any kind or in any form, including but not limited to any cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, snuff, or any other substance that is made in whole or in part from the tobacco leaf in any way for inhalation, ingestion, or placement in or into the human body ("tobacco products"); provided, however, until January 1, 2022, it shall not be unlawful for any person who is 19 or 20 years of age or older to work in a tobacco specialty store. Unless a penalty is otherwise provided in applicable state statute or in another chapter or section of this code with respect to a particular violation, any person, firm, or entity that violates any of the provisions of this section shall be guilty of a misdemeanor, and the penalty for a person who is convicted under this section shall be a fine in any amount not in excess of \$100 or performance of community service not in excess of 20 hours, as evidenced by a written certificate of the nonprofit organization for whom the service was performed, or both. Any person so charged with a violation of this section may be free from prosecution and penalty hereunder in the event he or she, prior to the initial court appearance, files with the court a certificate of completion of a smoking or tobacco-use cessation class to the satisfaction of the court. (Am. Ord. 1447, passed 2-1-22)

Section

134.01 Discharge of firearms

134.02 Concealed weapons **CHAPTER 134: WEAPONS; EXPLOSIVES**

134.03 Slingshots, air guns, BB guns, bows, and arrows

Cross-reference:

Fireworks, see §§ 111.15 through 115.19

§ 134.01 DISCHARGE OF FIREARMS.

It shall be unlawful for any person, except an officer of the law in the discharge of official duty, to fire or discharge any weapon within the city, including but not limited to any gun or pistol, provided, however, that nothing in this section shall be construed to prohibit the use of blank cartridges at any ceremonial event, such as a funeral salute, or at any event sanctioned by the city involving a starter pistol.

('79 Code, § 6-313) (Ord. 192, passed - -) Penalty, see § 10.99

§ 134.02 CONCEALED WEAPONS.

(A) It shall be unlawful for any person to carry a weapon or weapons concealed on or about his or her person such as a revolver, pistol, bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, fighting stars, nunchucks, or any other deadly weapon.

(B) It shall be an affirmative defense that the defendant was engaged in any lawful business, calling or employment at the time he or she was carrying any weapon or weapons and the circumstances in which such person was placed at the time were such as to justify a prudent person in carrying the weapon or weapons for the defense of his or her person, property or family.

(C) For purposes of this section:

BRASS OR IRON KNUCKLES means any instrument that consists of finger rings or guards made of a hard substance and that is designed, made or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles; and

KNIFE means any dagger, dirk, knife or stiletto with a blade over 3-1/2 inches in length or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds.

('79 Code, § 6-314) (Ord. 192, passed - -) Penalty, see § 10.99

Statutory reference:

Similar provisions, see Neb. RS 28-1201 and 28-1202

§ 134.03 SLINGSHOTS, AIR GUNS, BB GUNS, BOWS, AND ARROWS.

(A) It shall be unlawful for any person to discharge any device that is constructed, designed or modified to propel a projectile, including, but not limited to, a slingshot, air gun, BB gun, bow or the like loaded with rock, pellet, BB, arrow or other material at any time; provided that this division (A) shall not apply to the discharge of an air gun, BB gun, bow and arrow or similar device at an exhibition, demonstration or event pursuant to a valid permit issued by the city.

(B) (1) The City Clerk may grant permits allowing the discharge of air guns, BB guns, bows and arrows or similar devices at exhibitions, demonstrations or events specified in the permit, including demonstrations, exhibitions and events such as, or of, shooting galleries, gun clubs, commercial sellers of such equipment and operators of carnivals within the city, upon finding that the applicant has satisfactorily demonstrated that:

(a) The exhibition, demonstration or event will be so located, constructed and operated as to protect the health, safety and welfare of users, participants, spectators and the general public; and

(b) Operation of the exhibition, demonstration or event will not violate any law, rule or regulation of the city, state or federal government.

(2) The City Clerk's decision whether or not to issue a permit shall be based on the completed permit application and accompanying information, and any recommendation of the Chief of Police based on public health, safety and welfare considerations.

(3) The City Clerk shall consider a request for a permit upon receipt of a properly completed and filed permit application and any other required information, and payment of any required permit fee established from time to time by the Mayor and City Council.

(4) Permits shall be valid only for the premises, exhibition, demonstration, event and duration as stated on the permit.

(5) The City Clerk may adopt reasonable rules, regulations and requirements to implement the provisions of this section and prescribe the form and content of the permit application.

(6) The City Clerk may suspend or revoke any permit issued under this section upon finding that any applicant, exhibition, demonstration or event fails to meet the requirements of this section or any rules or regulations established by the City Clerk.
(‘79 Code, § 6-315) (Am. Ord. 1037, passed 6-5-07) Penalty, see § 10.99

Section

135.01 Findings and intent

135.02 **CHAPTER 135: SEXUAL PREDATOR RESIDENCY RESTRICTIONS**

135.03 Sexual predator residency restrictions, penalties and exceptions

§ 135.01 FINDINGS AND INTENT.

(A) The Nebraska Legislature has found that certain sex offenders who have committed offenses against children present a high risk to commit repeat offenses against children, has recognized the interest and authority of cities to restrict such persons' place of residency, and has defined statewide parameters for such restrictions in the Nebraska Sexual Predator Residency Restriction Act.

(B) Repeat sex offenders who prey on children are sexual perpetrators who present an extreme threat to public safety. Where there is a high risk to repeat such acts, such persons are extremely likely to pose a great threat to children. The cost of sex offender victimization to society is very high.

(C) It is the intent of this chapter to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city, and particularly its children, by creating certain areas in and around places where children regularly congregate where certain sexual predators cannot reside.

(Ord. 992, passed 5-16-06)

§ 135.02 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NEBRASKA STATUTES. Nebraska Revised Statutes, as amended by Legislative Bill 1199 (2006) or otherwise from time to time.

RESIDE. To have one's residence.

RESIDENCE. A place at which a person has established his or her home, where he or she is habitually present, and to which when he or she departs he or she intends to return. **RESIDENCE** may include more than one location and may be mobile or transitory. Residency may be shown by, among other evidence, where a person regularly sleeps, receives mail, or identifies as a residence on a driver's license, voter or vehicle registration, or other documents.

SCHOOL. A public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed by Neb. RS Chapter 79.

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

SEXUAL PREDATOR. An individual who is required to register under the Nebraska Sex Offender Registration Act, who has a high risk of recidivism as determined by the Nebraska State Patrol under Neb. RS 29-4013 , and who has victimized a person 18 years of age or younger. (Ord. 992, passed 5-16-06)

§ 135.03 SEXUAL PREDATOR RESIDENCY RESTRICTIONS, PENALTIES AND EXCEPTIONS.

(A) *Prohibited location of residence.* It is unlawful for any person who is a sexual predator to reside within 500 feet of a school.

(B) *Measurement of distance.* For purposes of division (A) above, the distance between a residence and school shall be measured by following a straight line between the outer property lines of the school and residence at their nearest point.

(C) *Penalties.* A person who violates this section shall be punished as provided in § 10.99 of this code.

(D) *Exceptions.* A person who is a sexual predator and residing at a residence within 500 feet of a school does not commit a violation of this section if any of the following apply:

(1) Said residence in which the person resides is a prison or a correctional or treatment facility operated by the State of Nebraska or a political subdivision of the state.

(2) The person established said residence in which the person resides prior to the effective date of this chapter and has not moved from that residence.

(3) The school that is within 500 feet of the person's residence was established after the person's initial date of residence at that location. (Ord. 992, passed 5-16-06)