

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

(B) Criminal mischief is an offense:

- (1) If the actor intentionally or maliciously causes pecuniary loss of \$500 or more but less than \$1,500; or
- (2) 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.

(Neb. RS 28-519) (1986 Code, § 6-303) (Am. Ord. 1067, passed 4-28-2003; Am. Ord. 1186, passed 2-22-2016) Penalty, see § 10.99

§ 130.02 CRIMINAL TRESPASS.

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

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

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

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

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

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

(a) Actual communication to the actor; or

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

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

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

(3) Second degree criminal trespass is a Class II misdemeanor if the offender defies an order to leave personally communicated to him or her by the owner of the premises or other authorized person.

(Neb. RS 28-520, 28-521) (1986 Code, § 6-304) 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 electrical apparatus that interferes habitually with radio and television reception shall be deemed to be guilty of a misdemeanor. Penalty, see § 10.99

Statutory reference:

Authority to prohibit nuisances, see Neb. RS 18-1720 and 28-1321

§ 130.04 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 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 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.

(1986 Code, § 6-320) Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-140

§ 130.06 DODGERS, HANDBILLS, AND CIRCULARS.

No person, persons, firm, company, or corporation shall circulate or distribute or employ any person to circulate or distribute, upon any of the public streets, alleys, sidewalks, or other public grounds of the city, or to scatter about or to hand to any person, or to place in or upon any automobile or other conveyance on any of the public grounds of the city, any dodgers, handbills, or circulars of any kind.

(1986 Code, § 6-329) Penalty, see § 10.99

§ 130.07 THEFT.

(A) For purposes of this section:

(1) The definitions found in Neb. RS 28-509 shall apply; and

(2) The offenses described in divisions (B) through (G) shall exist when the value of the thing involved is under \$500.

(B) (1) A person commits theft if he or she takes, or exercises control over, movable property of another with the intent to deprive him or her thereof.

(2) A person commits theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto.

(3) Except as provided for rental or lease of a motor vehicle in Neb. RS 28-511(4), it shall be presumed that a lessee's failure to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement is done with intent to deprive if the lessee has been mailed notice by certified mail that the lease or rental agreement has expired and he or she has failed within 10 days after that notice to return the property.

(Neb. RS 28-511)

(C) A person commits theft if he or she obtains property of another by deception as defined in Neb. RS 28-512.

(Neb. RS 28-512)

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(D) (1) A person commits theft if he or she obtains property of another by threatening to:

(a) Inflict bodily injury on anyone or commit any other criminal offense;

(b) Accuse anyone of a criminal offense;

(c) Expose any secret tending to subject any person to hatred, contempt, or ridicule, or to impair his or her credit or business repute;

(d) Take or withhold action as an official, or cause an official to take or withhold action;

(e) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is an affirmative defense to prosecution based on divisions (D)(1)(b), (D)(1)(c), or (D)(1)(d) that the property obtained by threat of accusation, exposure, lawsuit, or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which that accusation, exposure, lawsuit, or other official action relates, or as compensation for property or lawful services.

(Neb. RS 28-513)

(E) A person who comes into control of property of another that he or she knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient commits theft if, with intent to deprive the owner thereof, he or she fails to take reasonable measures to restore the property to a person entitled to have it.

(Neb. RS 28-514)

(F) (1) A person commits theft if he or she obtains services, which he or she knows are available only for compensation, by deception or threat or by false token or other means to avoid payment for the service. Services include labor, professional service, telephone service, electric service, cable television service, or other public service, accommodation in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other movable property. When compensation for service is ordinarily paid immediately upon the rendering of that service, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay gives rise to a presumption that the service was obtained by deception as to intention to pay.

(2) A person commits theft if, having control over the disposition of services of others to which he or she is not entitled, he or she diverts those services to his or her own benefit or to the benefit of another not entitled thereto.

(Neb. RS 28-515)

(G) A person commits theft if he or she receives, retains, or disposes of stolen movable property of another knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained, or disposed with intention to restore it to the owner.

(Neb. RS 28-517)

(1986 Code, § 6-302) (Am. Ord. 1068, passed 4-28-2003) Penalty, see § 10.99

§ 130.08 THEFT OF TELECOMMUNICATIONS SERVICE.

(A) It is an offense for any person to:

(1) Knowingly make or possess any device designed to or commonly used to obtain telecommunications service fraudulently from a licensed cable television franchisee with the intent to use that device in the commission of an offense described in Neb. RS 28-515(1);

(2) Knowingly tamper with, interfere with, or connect to any cables, wires, converters, or other devices used for the distribution of telecommunications service by any mechanical, electrical, acoustical, or other means without authority from the operator of the service with the intent of obtaining telecommunications service fraudulently; or

(3) Sell, give, transfer, or offer or advertise for sale a device which the person knows or should know is intended to be used for the purpose of obtaining telecommunications service fraudulently.

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

DEVICE. Includes, but is not limited to, instrument, apparatus, equipment, and plans or instructions for making or assembling the instrument, apparatus, or equipment.

TELECOMMUNICATIONS SERVICE. Includes, but is not limited to, telephone service and cable television service.

(Neb. RS 28-515.01) (1986 Code, § 6-302.1) (Ord. 1069, passed 4-28-2003) Penalty, see § 10.99

§ 130.09 CRIMINAL IMPERSONATION.

(A) For purposes of this section:

(1) The definitions found in Neb. RS 28-608 shall apply; and

(2) The offenses described in division (B) shall exist when the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500.

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(B) A person commits criminal impersonation if he or she:

(1) Assumes a false identity and does an act in his or her assumed character with intent to gain a pecuniary benefit for himself, herself, or another or to deceive or harm another;

(2) Pretends to be a representative of some person or organization and does an act in his or her pretended capacity with the intent to gain a pecuniary benefit for himself, herself, or another and to deceive or harm another;

(3) Carries on any profession, business, or any other occupation without a license, certificate, or other authorization required by law; or

(4) Without the authorization or permission of another and with the intent to deceive or harm another:

(a) Obtains or records personal identification documents or personal identifying information; and

(b) Accesses or attempts to access the financial resources of another through the use of a personal identification document or personal identifying information for the purpose of obtaining credit, money, goods, services, or any other thing of value.

(C) Criminal impersonation does not mean:

(1) The lawful obtaining of credit information in the course of a bona fide consumer or commercial transaction;

(2) The lawful, good faith exercise of a security interest or a right of setoff by a creditor or a financial institution; or

(3) The lawful, good faith compliance by any person when required by any warrant, levy, garnishment, attachment, court order, or other judicial or administrative order, decree, or directive. (Neb. RS 28-608) (1986 Code, § 6-334) (Ord. 1070, passed 4-28-2003) Penalty, see § 10.99

CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER

Section

- 131.01 Disorderly conduct
- 131.02 Street games
- 131.03 Obstruction of public ways
- 131.04 Obstructing water flow
- 131.05 Halloween curfew; duty of parent or guardian; defenses
- 131.06 Disturbing the peace
- 131.07 Assault in the third degree
- 131.08 Soliciting alms
- 131.09 Amplification of sound

- 131.99 Penalty

§ 131.01 DISORDERLY CONDUCT.

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

(1986 Code, § 6-322) Penalty, see § 131.99

Statutory reference:

Authority to prevent disorderly conduct, see Neb. RS 17-129

Authority to regulate noise, riots, and routs, see Neb. RS 17-556

§ 131.02 STREET GAMES.

It shall be unlawful for any person to play catch, bat a ball, or kick or throw a football or to engage in any exercise or sport upon the municipal 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 this type of exercise and sport.

(1986 Code, § 6-323) Penalty, see § 131.99

Statutory reference:

Authority to regulate excavation and obstruction of streets, see Neb. RS 17-142

Additional authority, see Neb. RS 17-555 and 17-557

§ 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.

(1986 Code, § 6-324) Penalty, see § 131.99

Statutory reference:

Authority to regulate excavation and obstruction of streets, see Neb. RS 17-142

Additional authority, see Neb. RS 17-555 and 17-557

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

§ 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 § 131.99

Statutory reference:

Authority to abate nuisances, see Neb. RS 17-555

Authority to prevent water obstruction, see Neb. RS 17-920

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

(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 municipality, or other places of public amusement or recreation therein from 10:30 p.m. on October 31 of each year to 5:00 a.m. of the following day.

(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 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 10:30 p.m. on October 31 of each year to 5:00 a.m. of the following day.

(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 the state.

(1986 Code, § 6-501) (Ord. 967, passed 10-27-1997) Penalty, see § 131.99

§ 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) (1986 Code, § 6-312) Penalty, see § 131.99

§ 131.07 ASSAULT IN THE THIRD DEGREE.

It shall be unlawful for any person, whether or not in a fight or scuffle entered into by mutual consent, to:

(A) Intentionally, knowingly, or recklessly cause bodily injury to another person; or

(B) Threaten another in a menacing manner.

(Neb. RS 28-310) (1986 Code, § 6-301) Penalty, see § 131.99

§ 131.08 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.

(Neb. RS 17-556) (1986 Code, § 6-321) Penalty, see § 131.99

§ 131.09 AMPLIFICATION OF SOUND.

(A) It shall be unlawful for any person within the city to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcasts or musical recordings, in or upon any street, alley, or other public place in a manner so as to be audible to any person at any point or place more than 75 feet from the source.

(B) The prohibition set forth hereinabove shall not apply to such an activity:

(1) When conducted in connection with an activity or event sponsored by a school, church, or governmental entity;

(2) When conducted in connection with an activity open to the public, such as a carnival, circus, athletic event, street dance; and

(3) If a permit for same has been issued by the City Council, or its designee, which may include conditions as the City Council or its designee shall deem necessary and appropriate; provided, however, the conditions shall be reasonably related to preserving the public peace, and shall not infringe upon the applicant's right to free speech.

(Ord. 1051, passed 5-12-2003) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) Any person who shall violate any provision of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in § 10.99 of this code.

(B) Upon conviction for a first offense against § 131.09, the fine shall not exceed \$100. For second and subsequent offenses, the fine shall be not less than \$100 nor in excess of \$500.

(Ord. 1051, passed 5-12-2003)

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

§ 132.01 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 such 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 or the city.

(Neb. RS 28-903) Penalty, see § 10.99

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

(A) It shall be unlawful for any person, without the use of a deadly or dangerous weapon, while intentionally preventing or attempting to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, to:

- (1) Use or threaten to use physical force or violence against the peace officer or another; or
- (2) Use any other means which creates a substantial risk of causing physical injury to the peace officer or another; or
- (3) Employ means requiring substantial force to overcome resistance to effecting the arrest.

(B) It is an affirmative defense to prosecution under this section if the peace officer involved was out of uniform and did not identify himself or herself as a peace officer by showing his or her credentials to the person whose arrest is attempted.

(Neb. RS 28-904) (1986 Code, § 6-309) Penalty, see § 10.99

§ 132.05 OBSTRUCTING A PEACE OFFICER.

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

- (1) The enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of his or her official authority; or
- (2) A police animal assisting a peace officer acting pursuant to the peace officer's official authority.

(B) For purposes of this section, **POLICE ANIMAL** means a horse or dog owned or controlled by the city or the state for the purpose of assisting a city law enforcement officer or a state trooper acting pursuant to his or her official authority.

(Neb. RS 28-906)

§ 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) (1986 Code, § 6-310) 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) (1986 Code, § 6-335) (Ord. 987, passed 8-24-1998) Penalty, see § 10.99

CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

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- 133.02 Appliances in yard
- 133.03 Putting carcass or filthy substance into well, spring, brook, or stream
- 133.04 Prohibited fences
- 133.05 Weeds; litter; stagnant water
- 133.06 Littering
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Cross-reference:

Alcoholic beverages, see Ch. 111

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 municipality.

(Neb. RS 28-1321(1)) (1986 Code, § 6-313) Penalty, see § 133.99

Statutory reference:

Maintaining a nuisance; penalty, see Neb. RS 28-1321

§ 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 § 133.99

Statutory reference:

Authority to prohibit nuisances within zoning jurisdiction, see Neb. RS 18-1720 and 28-1321

§ 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 § 133.99

§ 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.

(1986 Code, § 6-314) Penalty, see § 133.99

Statutory reference:

Barbed wire fences; restrictions, see Neb. RS 39-307

§ 133.05 WEEDS; LITTER; STAGNANT WATER.

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

(B) The owner or occupant of any lot or piece of ground within the municipality or within its 1-mile zoning jurisdiction shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of 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 municipality or within its 1-mile zoning jurisdiction is prohibited.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground within the municipality or within its 1-mile zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

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

(F) (1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any. The municipality shall establish the method of notice by ordinance. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within 5 days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the municipality to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the Municipal Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by an elected or appointed officer as designated in the ordinance. The hearing officer shall render a decision on the appeal within 5 business days after the conclusion of the hearing. If the appeal fails, the municipality may have such work done. Within 5 days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the municipality or fails to comply with the order to abate and remove the nuisance, the municipality may have such work done.

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

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

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

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

LITTER. Includes but is not limited to:

- (a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;
- (b) Wood, plaster, cement, brick, or stone building rubble;
- (c) Grass, leaves, and worthless vegetation except when used as ground mulch or in a compost pile;
- (d) Offal and dead animals; 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.

WEEDS. Include, but are not limited to: bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum 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.) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).
(Neb. RS 17-563) (1986 Code, § 6-315) (Am. Ord. 793, passed 7-22-1991; Am. Ord. 809, passed 1-27-1992; Am. Ord. 905, passed 7-16-1996; Am. Ord. 1090, passed 1-10-2005; Am. Ord. 1172, passed 4-14-2014; Am. Ord. 1186, passed 2-22-2016) Penalty, see § 133.99

Statutory reference:

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

§ 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. 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) (1986 Code, § 6-319) (Am. Ord. 884, passed 2-27-1995) Penalty, see § 133.99

§ 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) (1986 Code, § 6-316) Penalty, see § 133.99

SUBSTANCE OFFENSES

§ 133.20 USE OF TOBACCO BY MINORS.

Whoever, being a minor under the age of 18 years, shall smoke cigarettes or cigars, use vapor products or alternative nicotine products, or use tobacco in any form whatever, in this city, shall be guilty of an offense. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco. (Neb. RS 28-1418) (Am. Ord. 1183, passed 8-10-2015) Penalty, see § 133.99

§ 133.21 SALE OF TOBACCO TO MINORS.

Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, vapor products, or alternative nicotine products, to any minor under 18 years of age is guilty of an offense. (Neb. RS 28-1419) (Am. Ord. 1183, passed 8-10-2015) Penalty, see § 133.99

§ 133.22 DISPENSING OF TOBACCO FROM VENDING MACHINES PROHIBITED; EXCEPTIONS.

(A) Except as provided in division (B) of this section, it shall be unlawful to dispense cigarettes or other tobacco products from a vending machine or similar device.

(B) Cigarettes or other tobacco products may be dispensed from a vending machine or similar device when that machine or device is located in an area, office, business, plant, or factory which is not open to the general public, or on the licensed premises of any establishment having a license issued under the Nebraska Liquor Control Act for the sale of alcoholic liquor for consumption on the premises when that machine or device is located in the same room in which the alcoholic liquor is dispensed. (Neb. RS 28-1429.02) (1986 Code, § 6-330) (Ord. 822, passed 2-8-1993) Penalty, see § 133.99

§ 133.23 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL OR TOBACCO.

(A) *Alcohol.* It shall be unlawful for any minor, as defined by Neb. RS 53-103.23, 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)

(B) *Tobacco.* Any person under the age of 18 years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee hereunder by representing that he or she is of the age of 18 years or over, is guilty of an offense.

(Neb. RS 28-1427)

(Am. Ord. 1183, passed 8-10-2015) Penalty, see § 133.99

Statutory reference:

Manufacturing false identification for minors, see Neb. RS 53-180.05

§ 133.24 MINORS; PROHIBITED ACTS INVOLVING ALCOHOL.

(A) For purposes of this section, the definitions found in Neb. RS 53-103.01 through 53-103.42 shall apply, including, but not limited to, the definitions of the terms “alcoholic liquor,” “consume,” “minor,” “sale,” and “to sell.”

(B) Except as provided in § 111.20, 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 as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence.

(C) It shall be unlawful for any person under 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) (1986 Code, § 6-325) Penalty, see § 133.99

Statutory reference:

Permitted employment for minors, see Neb. RS 53-168.06

Similar provisions, see Neb. RS 53-180.02

§ 133.25 DRIVING UNDER THE INFLUENCE.

(A) It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

(1) While under the influence of alcoholic liquor or of any drug;

(2) When such person has a concentration of 0.08 of one gram or more by weight of alcohol per 100 milliliters of his or her blood; or

(3) When such person has a concentration of 0.08 of one gram or more by weight of alcohol per 210 liters of his or her breath.

(Neb. RS 60-6,196)

(B) Any person who operates or has in his or her actual physical control a motor vehicle in this municipality shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(C) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of this municipality may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this municipality while under the influence of alcoholic liquor or drugs in violation of division (A) of this section.

(D) Any person arrested as described in division (C) of this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of division (A) of this section, or if any person refuses to submit to such test or tests required pursuant to this division, the person shall be subject to the administrative revocation procedures provided in Neb. RS 60-498.01 to 60-498.04 and shall be guilty of an offense.

(Neb. RS 60-6,197)

(E) Any peace officer who has been duly authorized to make arrests for violation of traffic laws of this state or ordinances of this municipality may require any person who operates or has in his or her actual physical control a motor vehicle in this municipality to submit to a preliminary test of his or her breath for alcohol concentration if the officer has reasonable grounds to believe that such person has alcohol in his or her body, has committed a moving traffic violation, or has been involved in a traffic accident. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of division (A) shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of an offense.

(Neb. RS 60-6,197.04)

(F) Upon conviction of any person of a violation of this section, the provisions of Neb. RS 60-6,197.02 and 60-6,197.03 with respect to the operator's license of such person shall be applicable. (Neb. RS 60-6,197.07)

(G) Upon the conviction of any person for violation of this section, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests pursuant to a permit issued in accordance with Neb. RS 60-6,201 for the test administered and the analysis thereof if such test was actually made.

(Neb. RS 60-6,203)

(1986 Code, § 6-331) (Ord. 862, passed 5-23-1994; Am. Ord. 1046, passed 8-26-2002) Penalty, see § 133.99

§ 133.26 DRIVING UNDER THE INFLUENCE; PERSONS UNDER 21.

(A) It shall be unlawful for any person under 21 years of age to operate or be in the actual physical control of any motor vehicle:

(1) When that person has a concentration of 0.02 gram or more by weight of alcohol per 100 milliliters of his or her blood but less than the concentration prescribed under Neb. RS 60-6,196(1)(b); or

(2) When that person has a concentration of 0.02 gram or more by weight of alcohol per 210 liters of his or her breath but less than the concentration prescribed under Neb. RS 60-6,196(1)(c).

(B) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood or breath for the purposes of determining the concentration of alcohol in that blood or breath.

(C) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of the municipality may require any person under 21 years of age to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the concentration of alcohol in that blood or breath when the officer has probable cause to believe that the person was driving or was in actual physical control of a motor vehicle in the municipality in violation of this section. The peace officer may require the person to submit to a preliminary breath test. Any person who refuses to submit to a preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of this section shall be placed under arrest.

(D) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood or breath for a determination of the concentration of alcohol. If the chemical test discloses the presence of a concentration of alcohol in violation of this section, or the person refuses to submit to the test or tests required pursuant to this section, he or she shall be guilty of an offense.

(E) Upon the conviction of any person for the violation of this section, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests pursuant to a permit issued in accordance with Neb. RS 60-6,201, for the test administered and the analysis thereof if the test was actually made.

(Neb. RS 60-6,211.01, 60-6,211.02, and 60-6,203) (1986 Code, § 6-332) (Ord. 863, passed 5-23-1994; Am. Ord. 996, passed 6-28-1999) Penalty, see § 133.99

§ 133.27 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.

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

ALCOHOLIC BEVERAGE.

(a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more 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% alcohol by volume; or

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

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

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

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

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

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

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

2. The contents of which are partially removed.

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

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

(C) Except as provided in § 111.03 or division (D) of this section, it is unlawful for any person to consume an alcoholic beverage:

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

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

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

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

(2) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

(Neb. RS 60-6,211.08)

(Ord. 1142, passed 11-28-2011)

MOTOR VEHICLE AND HIGHWAY OFFENSES**§ 133.40 ABANDONED AUTOMOBILES.**

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

ABANDONED VEHICLE.

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

1. If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than 6 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 7 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 division (D) of this section; 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 7 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 division (D) of this section; 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 left in place on private property for more than 30 days after a local governmental unit, pursuant to an ordinance or resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in Neb. RS 60-1903.

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

MOBILE HOME. A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of 1 or more units that can be telescoped when towed and expanded later for additional capacity, or of 2 or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in Neb. RS 71-4603. **MOBILE HOME** does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to Neb. RS 60-169.

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

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

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

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

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(2) The city 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 5 days from the date such notice was mailed; or

(b) Title will vest in the city 30 days after the date such notice was mailed.

(3) If the agency described in division (C)(1)(a) or (b) of this section also notifies the city that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(4) Title to an abandoned vehicle, if unclaimed, shall vest in the city:

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (C)(2)(a) of this section;

(b) Thirty 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.

(5) After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the city may retain for use, sell, or auction the abandoned vehicle. If the city has determined that the vehicle should be retained for use, the city shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the city intends to retain the abandoned vehicle for its use and that title will vest in the city 30 days after the publication.

(Neb. RS 60-1903)

(D) (1) If a city law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

(2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

(Neb. RS 60-1903.01)

(E) If a state agency caused an abandoned vehicle described in division (A)(a)(5) or (A)(b)(4) of this section to be removed from public property in this (city/village), the state agency shall be entitled

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

(F) Any proceeds from the sale of an abandoned vehicle in the city's custody less any expenses incurred by the city shall be held by the city without interest, for the benefit of the owner or lienholders of such vehicle for a period of 2 years. If not claimed within such 2-year period, the proceeds shall be paid into the general fund of the city.
(Neb. RS 60-1905)

(G) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, 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 its contractual agent or as a result of any subsequent disposition.
(Neb. RS 60-1906)

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

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

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

(K) Any person violating the provisions of this section shall be guilty of an offense.
(Neb. RS 60-1911)
(1986 Code, § 4-416) (Ord. 4-416, passed 10-23-2000; Am. Ord. 1183, passed 8-10-2015) Penalty, see § 133.99

Statutory reference:

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

§ 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)) (1986 Code, § 6-327) Penalty, see § 133.99

§ 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. 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)) (1986 Code, § 6-328) Penalty, see § 133.99

§ 133.43 UNLICENSED OR INOPERABLE VEHICLES.

(A) No person in charge or control of any property within the municipality, other than municipal property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on that property longer than 30 days.

(B) No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time; provided that this section shall not apply to the following:

(1) A vehicle bearing a valid "In Transit" sticker;

(2) A vehicle in an enclosed building;

(3) A vehicle on the premises of a business enterprise operated in a lawful place and manner, when the vehicle is necessary to the lawful operation of the business; or

(4) A vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the municipality.

(C) Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a offense.

(Ord. 995, passed 7-26-1999) Penalty, see § 133.99

§ 133.44 UNLICENSED OR INOPERABLE VEHICLES; HOBBYIST PERMIT.

(A) Application for the hobbyist permit must be filed in writing with the City Clerk.

(B) To obtain a hobbyist permit:

(1) Go to the City Clerk's office; or

(2) Call a local automotive parts store and see if they have forms available. Some stores are carrying the permits, which must be filled out and mailed with the fee to the City Clerk's office, P.O. Box 160, 135 West 4th Street, Superior, NE 68978.

(C) Upon receipt of application and permit fee, a city permit will be issued.

(1) Permit fee: \$50 per vehicle (limit 2 vehicles per premises).

(2) Expiration date: 180 days following the date of issuance.

(D) Note: The location address of the vehicle(s) must be the same as the applicant's residential address.

(Ord. 995, passed 7-26-1999) Penalty, see § 133.99

WEAPONS OFFENSES; FIREWORKS AND EXPLOSIVES

§ 133.60 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 gun, pistol, or other fowling piece within the municipality, except that nothing in this section shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council.

(1986 Code, § 6-317) Penalty, see § 133.99

Statutory reference:

Authority to regulate, see Neb. RS 17-556

§ 133.61 SLINGSHOTS, AIR GUNS, BB GUNS.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the municipality.

(1986 Code, § 6-318) Penalty, see § 133.99

Statutory reference:

Authority to regulate, see Neb. RS 17-556

§ 133.99 PENALTY.

(A) Any person who shall violate any provision of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in § 10.99 of this code.

(B) Any person violating any of the provisions of § 133.43 of this code shall be fined \$100 for the first offense, \$200 for the second offense, and not less than \$300 for the third offense and each offense thereafter. Each day a violation of any of the provisions of that section continues shall constitute a distinct offense and shall be punishable as such.
(Ord. 995, passed 7-26-1999)

CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS

Section

- 134.01 Prostitution
- 134.02 Keeping a place of prostitution
- 134.03 Public indecency
- 134.04 Gambling

§ 134.01 PROSTITUTION.

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

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

(C) If the law enforcement officer determines, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of division (A) of this section is a person under 18 years of age, such person shall be immune from prosecution for a prostitution offense under this section and shall be subject to temporary custody under Neb. RS 43-248 and further disposition under the Nebraska Juvenile Code. A law enforcement officer who takes a person under 18 years of age into custody under this section shall immediately report an allegation of a violation of Neb. RS 28-831 to the Department of Health and Human Services which shall commence an investigation within 24 hours under the Child Protection and Family Safety Act. (Neb. RS 28-801) (1986 Code, § 6-306) (Am. Ord. 1172, passed 4-14-2014; Am. Ord. 1183, passed 8-10-2015) Penalty, see § 10.99

§ 134.02 KEEPING A PLACE OF PROSTITUTION.

Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who knowingly grants or permits the use of that place for the purpose of prostitution commits the offense of keeping a place of prostitution. (Neb. RS 28-804) (1986 Code, § 6-307) Penalty, see § 10.99

§ 134.03 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;

(B) An exposure of the genitals of the body done 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) (1986 Code, § 6-308) Penalty, see § 10.99

§ 134.04 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.

(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 28-1102 through 28-1104, 28-1107)