

TITLE XIII: GENERAL OFFENSES

Chapter

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CHAPTER 130: PROPERTY OFFENSES

Section

- 130.01 Criminal mischief
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§ 130.01 CRIMINAL MISCHIEF.

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

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

or

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

(B) Criminal mischief is an offense:

(1) If the actor intentionally or maliciously causes a pecuniary loss of \$500 or more, but less than \$5,000; or

(2) If the actor intentionally, maliciously, or recklessly causes a pecuniary loss in an amount of less than \$500, or if his or her action results in no pecuniary loss.

(Neb. RS 28-519) Penalty, see § 130.99

§ 130.02 CRIMINAL TRESPASS.

(A) (1) A person commits first degree criminal trespass if:

(a) 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

(b) 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.

(2) For the purpose 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.

(Neb. RS 28-520)

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

(a) Actual communication to the actor;

(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) above.

(2) A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, he or she intentionally causes an electronic device, such as an unmanned aircraft, to enter into, upon, or above the property of another, including such property owned by such person and leased or rented to another, with the intent to observe another person without his or her consent in a place of solitude or seclusion.

(3) For the purpose of this section, **UNMANNED AIRCRAFT** means an aircraft, including an aircraft commonly known as a drone, which is operated without the possibility of direct human intervention from within or on the aircraft.

(Neb. RS 28-521)

Penalty, see § 130.99

§ 130.03 ELECTRICAL INTERFERENCE.

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

Penalty, see § 130.99

Statutory reference:

Provisions on nuisances, see Neb. RS 18-1720 and 28-1321

§ 130.04 INJURY TO TREES.

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

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

Penalty, see § 130.99

§ 130.05 POSTING.

It shall be unlawful for any person to use the streets, sidewalks, or public grounds of the city for signs, signposts, or the posting of handbills or advertisements without the written permission of the City Council.

Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

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(B) (1) First degree criminal trespass as set out in § 130.02(A) is a Class I misdemeanor.
(Neb. RS 28-520)

(2) (a) Second degree criminal trespass as set out in § 130.02(B) is a Class III misdemeanor, except as provided for in division (B)(2)(b) below.

(b) 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 28-521)

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 Disturbing the peace

§ 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 city 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.

Penalty, see § 10.99

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.

(A) 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 city streets and sidewalks.

(B) 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.

Penalty, see § 10.99

Statutory reference:

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

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

§ 131.03 OBSTRUCTION OF PUBLIC WAYS.

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

Penalty, see § 10.99

Statutory reference:

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

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

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 § 10.99

Statutory reference:

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

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

§ 131.05 DISTURBING THE PEACE.

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family, or neighborhood.

(Neb. RS 28-1322) Penalty, see § 10.99

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 a 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 him or her to be a peace officer, unreasonably to refuse or fail to aid the peace officer in:

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

(B) Securing the offender when apprehended; or

(C) Conveying the offender to the jail of the county or of this 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;
- (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) 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 the purpose of this section, ***POLICE ANIMAL*** means a horse or dog owned or controlled by the state or any county, city, or village for the purpose of assisting a peace officer acting pursuant to his or her official authority.
(Neb. RS 28-906) Penalty, see § 10.99

§ 132.06 INTERFERING WITH A 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 of or attempt to discharge an official duty;

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

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

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

(Neb. RS 28-908) Penalty, see § 10.99

§ 132.07 FALSE REPORTING.

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

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

(2) Furnish information he or she knows to be false alleging the existence of the need for the assistance of an emergency medical service or 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 the assistance of a fire department or any personnel or equipment of such a department;

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

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

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

CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

General Provisions

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

Substance Offenses

- 133.20 Use of tobacco by persons under the age of 21
- 133.21 Sale of tobacco to persons under the age of 21
- 133.22 Misrepresentation by person under the age of 21 to obtain tobacco
- 133.23 Misrepresentation by minor to obtain alcohol
- 133.24 Minors; prohibited acts involving alcoholic liquor
- 133.25 Drinking on public property; open beverage container

Motor Vehicle and Highway Offenses

- 133.40 Abandoned automobiles
- 133.41 Unlicensed or inoperable vehicles

Weapons Offenses

- 133.55 Discharge of firearms
- 133.56 Slingshots, air guns, BB guns

Cross-reference:

Alcohol provisions generally, see Chapter 111
Health and safety provisions generally, see Chapter 91
Removal of illegally stopped vehicles, see § 72.31
Tobacco provisions generally, see Chapter 112

GENERAL PROVISIONS**§ 133.01 MAINTAINING A NUISANCE.**

(A) A person commits the offense of maintaining a nuisance if he or she erects, keeps up or continues, and maintains any nuisance to the injury of any part of the citizens of this city.

(B) The following shall be deemed nuisances:

(1) The erecting, continuing, using, or maintaining of any building, structure, or other place for the exercise of any trade, employment, manufacture, or other business which, by occasioning noxious exhalations, or noisome or offensive smells, becomes injurious and dangerous to the health, comfort, or property of individuals or the public;

(2) The obstructing or impeding, without legal authority, of the passage of any navigable river, harbor, or collection of water;

(3) The corrupting or rendering unwholesome or impure of any watercourse, stream, or water; or unlawfully diverting any such watercourse from its natural course or state to the injury or prejudice of others; and

(4) The obstructing or encumbering by fences, buildings, structures or otherwise of any of the public highways or streets or alleys of the city.

(C) A person guilty of erecting, continuing, using, maintaining, or causing any such nuisance shall be guilty of a violation of this section, and in every such case, the offense shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby.

(D) The court, in case of conviction of such offense, shall order every such nuisance to be abated or removed.

(Neb. RS 28-1321) Penalty, see § 10.99

§ 133.02 APPLIANCES IN YARD.

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

Penalty, see § 10.99

Statutory reference:

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

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

Whoever shall 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 shall be guilty of an offense.

(Neb. RS 28-1304) Penalty, see § 10.99

§ 133.04 PROHIBITED FENCES.

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

Penalty, see § 10.99

Statutory reference:

Restrictions on barbed wire fences, see Neb. RS 39-307

§ 133.05 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 type of material and the person is authorized by the proper public authority to so use the property; or

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

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

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

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

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

(Neb. RS 28-523) Penalty, see § 10.99

§ 133.06 RAISING OR PRODUCING STAGNANT WATER.

Whoever shall 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 shall be guilty of an offense, and the court shall, moreover, order every such nuisance to be abated or removed.

(Neb. RS 28-1303) Penalty, see § 10.99

SUBSTANCE OFFENSES**§ 133.20 USE OF TOBACCO BY PERSONS UNDER THE AGE OF 21.**

(A) Whoever, being a person under the age of 21 years, shall smoke cigarettes or cigars, use electronic nicotine delivery systems or alternative nicotine products, or use tobacco in any form whatever in this city shall be guilty of an offense.

(B) Any person charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, electronic nicotine delivery systems, alternative nicotine products, or tobacco.

(Neb. RS 28-1418) Penalty, see § 10.99

§ 133.21 SALE OF TOBACCO TO PERSONS UNDER THE AGE OF 21.

(A) Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigars, cigarettes or cigarette paper, electronic nicotine delivery systems, or alternative nicotine products, to any person under 21 years of age is guilty of an offense.

(B) (1) In order to further the public policy of deterring licensees or other persons from violating division (A) above, a person who is at least 15 years of age but under 21 years of age may assist a peace officer in determining compliance with division (A) above if:

(a) The parent or legal guardian of the person has given written consent for the person to participate in such compliance check if such person is under 19 years of age;

(b) The person is an employee, a volunteer, or an intern with a state or local law enforcement agency;

(c) The person is acting within the scope of his or her assigned duties as part of a law enforcement investigation;

(d) The person does not use or consume a tobacco product as part of such duties; and

(e) The person is not actively assigned to a diversion program, is not a party to a pending criminal proceeding or a proceeding pending under the State Juvenile Code, Neb. RS 43-245 et seq., and is not on probation.

(2) Any person under the age of 21 years acting in accordance with and under the authority of this division (B) shall not be in violation of Neb. RS 28-1427.
(Neb. RS 28-1419) Penalty, see § 10.99

§ 133.22 MISREPRESENTATION BY PERSON UNDER THE AGE OF 21 TO OBTAIN TOBACCO.

Except as provided in § 133.21(B), any person under the age of 21 years who obtains cigars, tobacco, cigarettes or cigarette material, electronic nicotine delivery systems, or alternative nicotine products from a licensee hereunder by representing that he or she is of the age of 21 years or over is guilty of an offense.

(Neb. RS 28-1427) Penalty, see § 10.99

§ 133.23 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL.

No minor, as defined by Neb. RS 53-103.23, shall obtain, or attempt to obtain, alcoholic liquor by misrepresentation of age, or by any other method, in any tavern or other place where alcoholic liquor is sold.

(Neb. RS 53-180.01) Penalty, see § 10.99

Statutory reference:

Penalty for manufacturing false identification intended for minors, see Neb. RS 53-180.05

§ 133.24 MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR.

(A) For the purpose of this section, the definitions found in Neb. RS 53-103.01 through 53-103.51 shall apply, including, but not limited to, the definitions of the terms “alcoholic liquor,” “consume,” “minor,” “sale,” and “to sell.”

(B) Except as otherwise provided in § 111.15, 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) Penalty, see § 10.99

Statutory reference:

Minor Alcoholic Liquor Liability Act, see Neb. RS 53-401 through 53-409

Definitions, where found, see Neb. RS 53-103

§ 133.25 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;

(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; and

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

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

LIMOUSINE. A luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and not 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.

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 city.

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

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

(D) (1) 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 the rules and regulations adopted and promulgated by the State Public Service Commission and subject to Neb. RS Chapter 75, Article 3.

(2) 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 city if:

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

Penalty, see § 10.99

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, Neb. RS 60-301 et seq., 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 the 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 and lienholder under division (D) below; 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 the permission of the owner, or after permission of the owner is terminated;

4. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last registered owner and lienholder under division (D) below; 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 one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units separately towable but designed to be joined into one integral unit, and shall include a manufactured home as 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 \$500 or less, title shall immediately vest in the city. Any certificate of title issued under this division (B) 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) above, 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.

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(2) The city shall notify the last registered owner, if any, and any lienholder, if any, within 15 business days that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after five 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 (C)(1)(b) above 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) above;

(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) above, 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, if any, and lienholders, if any, within 15 calendar days 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 (D) shall not apply to motor vehicles that are 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) (1) A law enforcement agency is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the procedures in Neb. RS 60-1902 and 60-1903.

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

(3) A private property owner is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within 24 hours, the designated law enforcement agency in the jurisdiction from which the vehicle is removed and provide the registration plate number, the vehicle identification number, if available, the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle that is towed away under this subsection is subject to Neb. RS 52-601.01 through 52-605 and 60-2410 by the private towing service that towed the vehicle.

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

(F) If a state agency caused an abandoned vehicle described in division (A)(a)(5) or (A)(b)(4) above to be removed from public property in this city, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in division (A)(a)(1), (A)(a)(2), (A)(a)(3), or (A)(a)(4) or (A)(b)(1), (A)(b)(2), or (A)(b)(3) above 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)

(G) 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 two years. If not claimed within such two-year period, the proceeds shall be paid into the General Fund of the city.

(Neb. RS 60-1905)

(H) Neither the owner, owner's agent, owner's employee, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the 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, while in the possession of a private towing service, or as a result of any subsequent disposition.

(Neb. RS 60-1906)

(I) No person shall cause any vehicle to be an abandoned vehicle as described in division (A)(a)(1), (A)(a)(2), (A)(a)(3), or (A)(a)(4) or (A)(b)(1), (A)(b)(2), or (A)(b)(3) above.

(Neb. RS 60-1907)

(J) 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 (J) shall be guilty of an offense.

(Neb. RS 60-1908)

(K) 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)

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

(Neb. RS 60-1911)

Penalty, see § 10.99

§ 133.41 UNLICENSED OR INOPERABLE VEHICLES.

(A) No person in charge or control of any property within the city, other than city 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 city.

(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 an offense.

Penalty, see § 10.99

Statutory reference:

“In Transit” stickers, see Neb. RS 60-376

WEAPONS OFFENSES

§ 133.55 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 city, 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.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-556

§ 133.56 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 city.

Penalty, see § 10.99

CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS

Section

- 134.01 Prostitution
- 134.02 Public indecency
- 134.03 Gambling

§ 134.01 PROSTITUTION.

(A) Except as provided in division (C) below, 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) (1) 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) above is:

(a) A person engaging in those acts as a direct result of being a trafficking victim as defined in Neb. RS 28-830, such person shall be immune from prosecution for a prostitution offense; or

(b) 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 State Juvenile Code, Neb. RS 43-245 et seq.

(2) 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 28-710 et seq.
(Neb. RS 28-801) Penalty, see § 10.99

§ 134.02 PUBLIC INDECENCY.

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

(1) An act of sexual penetration as defined in Neb. RS 28-318;

(2) An exposure of the genitals of the body done with the intent to affront or alarm any person;

or

(3) A lewd fondling or caressing of the body of another person of the same or opposite sex.

(B) It shall not be a violation of this section for an individual to breast-feed a child in a public place. (Neb. RS 28-806) Penalty, see § 10.99

§ 134.03 GAMBLING.

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

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

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

(a) Engaging in bookmaking;

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

(c) Betting something of value in an amount of \$500 or more with one or more persons in one day.

(Neb. RS 28-1102 and 28-1103)

(2) Participates in unlawful gambling as a player by betting less than \$500 in any one day.

(Neb. RS 28-1104)

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

(2) The owner or operator of a retail establishment who is not a manufacturer, distributor, or seller of mechanical amusement devices as defined under the Mechanical Amusement Device Tax Act, Neb. RS 77-3011 et seq., shall have an affirmative defense to possession of a gambling device described in division (C)(1) above if the device bears an unexpired mechanical amusement device decal as required by such Act. However, such affirmative defense may be overcome if the owner or operator had actual knowledge that operation of the device constituted unlawful gambling activity at any time such device was operated on the premises of the retail establishment.

(3) Notwithstanding any other provisions of this division (C), any mechanical game or device classified by the federal government as an illegal gambling device and requiring a federal gambling device tax stamp as required by the Internal Revenue Service in its administration of 26 U.S.C. §§ 4461 and 4462, amended July 1, 1965, by Pub. Law No. 89-44, is hereby declared to be illegal.
(Neb. RS 28-1107)

(D) In any prosecution under this section, it shall be an affirmative defense that the writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the advancement of an unlawful gambling activity.
(Neb. RS 28-1108)

(E) Proof of possession of any gambling device shall be prima facie evidence of possession thereof with knowledge of its contents and character.
(Neb. RS 28-1109)

(F) It shall be no defense to a prosecution under any provision of this section relating to gambling that the gambling is conducted outside this city and is not in violation of the laws of the jurisdiction in which it is conducted.
(Neb. RS 28-1110)

(G) In addition to any other penalty, a sentencing court may order that any money, securities, negotiable instruments, firearms, conveyances, or electronic communications devices as defined in Neb. RS 28-833, or any equipment, components, peripherals, software, hardware, or accessories related to electronic communications devices, or any gambling devices, be forfeited as a part of the sentence imposed if it finds by clear and convincing evidence adduced at a separate hearing in the same prosecution, conducted pursuant to Neb. RS 28-1601, that any or all such property was derived from, used, or intended to be used to facilitate a violation of this section.
(Neb. RS 28-1111)

(H) In any prosecution for an offense defined in this section, when the defendant's status as a player constitutes an excusing condition, the fact that the defendant was a player shall constitute an affirmative defense.
(Neb. RS 28-1112)

(I) Nothing in this section shall be construed to:

(1) Apply to or prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings;

(2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the State Bingo Act, Neb. RS 9-201 et seq., the State County and City Lottery Act, Neb. RS 9-601 et seq., the State Lottery and Raffle Act, Neb. RS 9-401 et seq., the State Pickle Card Lottery Act, Neb. RS 9-301 et seq., the State Small Lottery and Raffle Act, Neb. RS 9-501 et seq., the State Lottery Act, Neb. RS 9-801 et seq., or Neb. RS 9-701; or

(3) Apply to or prohibit the operation of games of chance, whether using a gambling device or otherwise, by authorized gaming operators within licensed racetrack enclosures or the participation or playing of such games of chance, whether participated in or played using a gambling device or otherwise, by individuals 21 years of age or older within licensed racetrack enclosures as provided in the State Racetrack Gaming Act, Neb. RS 9-1101 et seq.
(Neb. RS 28-1113)

(J) In any prosecution under this section in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine, or other periodically printed publication of general circulation shall be admissible in evidence and shall constitute prima facie evidence of the occurrence of the event.

(Neb. RS 28-1117)

Penalty, see § 10.99