

TITLE XIII: GENERAL OFFENSES

Chapter

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CHAPTER 130: OFFENSES IN GENERAL

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§ 130.01 CRIMINAL TRESPASS.

It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to:

(A) Enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or

(B) Enter or remain in any place as to which notice against trespass is given by:

(1) Actual communication to the actor;

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

(3) Fencing or other enclosure manifestly designed to exclude intruders.

(1993 Code, § 6-301) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 28-520, 28-521

§ 130.02 LITTERING.

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

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

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

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

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

(1993 Code, § 6-302) (Ord. 01-175-5, passed 1-17-1995) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 28-523

§ 130.03 DRINKING IN PUBLIC.

It shall be unlawful for any person to consume alcoholic beverages in the public streets, alleys, roads, highways or upon any property owned by the municipality or other governmental subdivision thereof, or inside vehicles while upon the public streets, alleys, roads or highways, in theaters, dance

halls or any other place open to the public; provided, the provisions of this section shall not apply to liquor establishments licensed by the state.

(1993 Code, § 6-303) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 53-186

§ 130.04 MISREPRESENTATION BY MINOR.

It shall be unlawful for any minor to represent that he is of the age of 19 years for the purpose of asking for, purchasing or receiving any alcoholic beverages.

(1993 Code, § 6-304) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 53-168.06

§ 130.05 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. R.S. 28-801) (1993 Code, § 6-305) (Ord. 2015-17, passed 5-4-2015) Penalty, see § 130.99

§ 130.06 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 such place for the purpose of prostitution commits the offense of keeping a place of prostitution.

(1993 Code, § 6-306) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 28-804

§ 130.07 POSTING.

It shall be unlawful for any person to post, paste or paint any sign, advertisement or other writing of any nature upon a fence, pole, building or other property without the written permission of the owner of the said property.

(1993 Code, § 6-307) Penalty, see § 130.99

§ 130.08 DISCHARGE OF FIREARMS.

(A) It shall be unlawful for any person, except an officer of the law in the discharge of his or her official duty, to fire or discharge any gun, pistol or other fowling piece within the municipality.

(B) Nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the governing body.

(1993 Code, § 6-308) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 17-556

§ 130.09 SLINGSHOTS, AIR GUNS, BB GUNS.

(A) (1) It shall be unlawful for any person to discharge a slingshot, air gun, BB gun or cross bow, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the municipality.

(2) It shall be unlawful for any person to discharge a bow and arrow on property other than property owned or rented by the one discharging the arrow or upon property belonging to another unless he first receives permission to so discharge a bow and arrow. It shall further be unlawful for any person to cause or any property owner to allow any arrow to leave the boundaries of the property upon which the bow and arrow is being discharged. No broadhead arrows of any kind shall be discharged within the city limits.

(B) (1) Unless authorized by the governing body, it shall be unlawful for any person to hunt or trap animals upon all leased or owned municipal real estate.

(2) It shall be unlawful for any person, except an officer of the law in the discharge of his or her official duty, to fire or discharge any firearm, slingshot, BB gun, air gun, bow and arrow, or cross bow, or the like loaded with bullets, shot, rocks, arrows or other dangerous projectile upon, into or across all said leased or owned municipal real estate.

(1993 Code, § 6-309) (Ord. 06-0110-1, passed 6-15-2010) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 17-556

§ 130.10 DISTURBING THE PEACE.

(A) It shall be unlawful for any person or persons to assemble or gather within the municipality with the intent to do an unlawful or disorderly act or acts, by force or violence against the municipality, or residents therein, or who shall disturb the public peace, quiet, security, repose or sense of morality.

(B) Any person or persons so assembled or gathered shall be deemed to be guilty of an offense.
(1993 Code, § 6-310) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 28-818

§ 130.11 DISORDERLY CONDUCT.

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct themselves in such a way as to breach the peace shall be deemed to be guilty of an offense.

(1993 Code, § 6-311) Penalty, see § 130.99

§ 130.12 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.

(1993 Code, § 6-313) Penalty, see § 130.99

§ 130.13 WEEDS, LITTER, STAGNANT WATER.

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

(B) The owner or occupant of any lot or piece of ground within the municipality or within its extraterritorial zoning jurisdiction shall keep the lot or piece of ground and the adjoining street and alleys free of any growth of 10 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 extraterritorial zoning jurisdiction is prohibited;

(D) It is hereby declared to be a nuisance to permit or maintain any growth of 10 inches or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground within the municipality or within its extraterritorial zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

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

(F) (1) Notice to abate and remove such nuisance shall be given by posting said notice on the premises, in an area and in a manner, which is clearly visible. Within five days after posting 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. and may 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 assessments for improvements are levied and assessed.; or

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

(3) If 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 Clerk is requested within 5 days after posting; 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 five business days after the conclusion of the hearing. If the appeal fails, the municipality may have such work done.

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

LITTER. Includes:

- (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. Includes, but is not to be limited to, bindweed (*convulvulus arvensis*), puncture vine (*tribulus terrestris*), leafy spurge (*euphorbia esula*), Canada thistle (*cirsium arvense*), perennial peppergrass (*lepidium dra-ba*), Russian knapweed (*centaurea picris*), Johnson grass (*sorghum halepense*), nodding or musk thistle, quack grass (*agropyron repens*), perennial sow thistle (*sonchus arvensis*), horse nettle (*solatium carolinense*), bull thistle (*cirsium lanceolatum*), buckthorn (*rahmnus sp.*) (*tourn*), hemp plant (*cannabis sativa*) and ragweed (*ambrosiaceae*).

(Ord. 2018-13, passed 7-2-2018) (Ord. 2016-7, passed 6-20-2016) (1993 Code, § 6-314)

Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 17-563

§ 130.14 HITCHING RIDES.

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

(1993 Code, § 6-316) Penalty, see § 130.99

§ 130.15 ABANDONED AUTOMOBILES.

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

(B) An automobile shall be deemed to be **ABANDONED** if left unattended:

(1) With no number plates affixed thereto, for more than six hours on any public property;

(2) For more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(3) For more than 48 hours, after the parking of such vehicle shall have become illegal, if left on a portion of a public property on which parking is legally permitted; or

(4) For more than seven days on private property if left Initially without permission of the owner, or after permission of the owner shall be terminated.

(C) The title to any automobile so abandoned which at the time of such abandonment, has no number plates of the current year affixed and is of a wholesale value, taking into consideration the condition of such vehicle, of \$100 or less, shall immediately vest in the municipality. In the event the automobile is licensed for the current year or is of a wholesale value of over \$100. the municipal police shall make a reasonable effort to contact the owner of the said automobile by sending a notice to the registered owner, if known; by sending an inquiry to the county it is registered in. if the owner is unknown; or by contacting the Director of Motor Vehicles, if the car is without license plates and the owner is unknown. If notified by the Director of Motor Vehicles that a lien or mortgage exists on said vehicle, notice shall also be sent to the lien holder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. If the owner, lien holder or mortgagee, is known and does not claim the automobile within five days after the date when the notice was mailed, or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the municipality and the automobile may be sold. Any proceeds from the sale of the automobile less any expenses incurred by the municipality in such sale shall be held without interest for the benefit of the owner of such vehicle for a period of two years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund.

(D) For purposes of this section, **PUBLIC PROPERTY** shall mean any public right-of-way, street, highway, alley, park or other state, county or municipally-owned property; and private property shall mean any privately-owned property which is not included within the definition of public property.

(E) Any person who abandons an automobile as hereinbefore defined shall be deemed to be guilty of an offense.

(1993 Code, § 6-317) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 60-1901 through 60-1911

§ 130.16 UNLICENSED OR INOPERABLE VEHICLES.

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 such property longer than 30 days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time; provided, this section shall not apply to a vehicle in an enclosed building; to a vehicle on the premises of a business enterprise, operated in a lawful place and manner, when such vehicle is necessary to the lawful operation of the business; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the municipality. 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.

(1993 Code, § 6-318) Penalty, see § 130.99

§ 130.17 SIGNS, TRAFFIC-CONTROL DEVICES, SURVEILLANCE DEVICES; DEFACING OR INTERFERING WITH.

It shall be unlawful for any person to willfully or maliciously deface, injure, remove, obstruct, knock down or interfere with any official traffic sign or signal, traffic-control device or traffic-control surveillance device.

(1993 Code, § 6-319) Penalty, see § 130.99

Statutory reference:

Related provisions, see Neb. RS 60-6,129, 60-6,130

§ 130.18 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 or to violate any of the City's Zoning or Subdivision Regulations.

(1993 Code, § 6-320) Penalty, (Ord. 2018-17, passed 7.2.18) see § 130.99

Statutory reference:

Related provisions, see Neb. RS 18-1720, 28-1321

§ 130.19 HUNTING, TRAPPING OF ANIMALS.

Unless authorized by the governing body, it shall be unlawful for any person to hunt or trap animals upon any real estate owned or controlled by the city or within 200 yards of such real estate owned or controlled by the city.

(Ord. 02-0210-2, passed 2-2-2010) Penalty, see § 130.99

§ 130.20 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) (Ord. 2015-15, passed 5-4-2015) Penalty, see § 130.99

§ 130.21 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) (Ord. 2015-15, passed 5-4-2015) Penalty, see § 130.99

§ 130.22 MISREPRESENTATION BY MINOR TO OBTAIN 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) (Ord. 2015-15, passed 5-4-2015) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) (1) *Generally.* Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (1993 Code, § 6-401)

(2) *Abatement of nuisance.* Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (1993 Code, § 6-402)

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(B) Any person convicted of a violation of § 130.09(B) shall be punished by a fine not to exceed \$500 for each offense. A new offense shall be deemed to be committed each 24 hours such violation continues.

(C) (1) The term **CALENDAR** shall mean the period between January 1 and December 31 of each year including the first and last days of the year;

(2) The following shall be the minimum penalties for violations of § 130.13 occurring during the same calendar year, whether or not conviction occurs during the same calendar year:

- (a) First conviction: \$50;
- (b) Second conviction of violation: \$100;
- (c) Third conviction of violation: \$200; and
- (d) Fourth and subsequent convictions of violation: \$500.

(3) The maximum penalty for violation of any section of § 130.13 is \$500. Subsequent convictions of violations of the same section will be \$500.

(4) A new offense shall be deemed to have occurred each 24 hours the violation continues, or offender fails to comply with any code to abate issued by the municipality court, or administrative agency having jurisdiction of the offender or subject matter of the offense.

(D) (1) Any person convicted of a violation of § 130.19 shall be punished by a fine not to exceed \$500 for each offense.

(2) A new offense shall be deemed to be committed each 24 hours such violation continues. (Ord. 10-0708-2, passed 10-7-2008; Ord. 09-1809-1, passed 8-18-2009; Ord. 02-0210-2, passed 2-2-2010; Ord. 06-0110-1, passed 6-15-2010)

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722

CHAPTER 131: PUBLIC NUILITY/INDECENCY

Section

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- 131.03 Nudity defined
- 131.04 Exception
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§ 131.01 PURPOSE AND INTENT.

(A) It is the purpose of this chapter and the intent of the city to:

(1) Prohibit public nudity and public indecency; and

(2) To further the government's interest in avoiding the harmful secondary effects thereof, such as prostitution, sexual assaults, criminal activity, degradation of women and other activities which break down the family structure.

(B) This prohibition is not intended to extend to any expression of opinion or the performance of any bona fide play, ballet or drama protected by the First Amendment to the Constitution of the United States of America or by Article I, § 5 of the Constitution of the state.

(Ord. 2013-7, passed 12-5-2012) Penalty, see § 131.99

§ 131.02 PUBLIC INDECENCY.

(A) Any person who knowingly or intentionally, in a public place, does any of the following, commits the offense of "public indecency":

(1) Engages in sexual intercourse;

- (2) Appears in a state of nudity; or
- (3) Fondles the genitals of himself, herself or another person.

(B) Furthermore, any person who aids, abets, assists or director another person to commit “public indecency”, as that term is defined above, also commits the offense of “public indecency”.
(Ord. 2013-7, passed 12-5-2012) Penalty, see § 131.99

§ 131.03 NUDITY DEFINED.

(A) For purposes of this chapter, *NUDITY* means:

- (1) The showing or depiction of the human, post-pubertal male or female genitals;
- (2) The showing or depiction of the human, post-pubertal male or female pubic area or buttocks with less than a full opaque covering;
- (3) The showing or depiction of the human, post-pubertal female breast with less than a full opaque covering of any portion thereof below the top of the areola of the nipple;
- (4) The exposure of any device, costume or covering which gives the appearance of or simulates the genitals or pubic area; or
- (5) The exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

(B) This definition shall include the entire portion of the human female breast below the top of the areola of the nipple, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other clothing.
(Ord. 2013-7, passed 12-5-2012)

§ 131.04 EXCEPTION.

The prohibition set forth in § 131.02 shall not apply to any individual exposing a breast in the process of breast-feeding an infant under two years of age.
(Ord. 2013-7, passed 12-5-2012)

§ 131.05 PUBLIC PLACE DEFINED.

For the purposes of this chapter, *PUBLIC PLACE* includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public,

including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

(Ord. 2013-7, passed 12-5-2012)

§ 131.06 NUISANCE; ABATEMENT.

Any activities in violation of this chapter shall be deemed to constitute a nuisance, and the same shall be abated. Whenever a nuisance exists, the city may, in addition to any and all other remedies available at law for the abatement of a nuisance, proceed by a suit in equity to enjoin and abate the same. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgment in the action.

(Ord. 2013-7, passed 12-5-2012) Penalty, see § 131.99

§ 131.07 OTHER NUISANCE PROVISIONS.

This chapter shall not, in any way, be construed to repeal or be in conflict with the nuisance provisions contained in the city code; rather, this chapter supplements the nuisance provisions which may be contained in the city code.

(Ord. 2013-7, passed 12-5-2012)

§ 131.99 PENALTY.

(A) Any person who shall violate this chapter or any portion thereof, or refuse to comply with the enforcement of any of the provisions of this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$500 for each offense.

(B) A new offense shall be deemed to have been committed every 24 hours that the person is in violation of or fails to comply with this chapter.

(Ord. 2013-7, passed 12-5-2012)

CHAPTER 132: SEXUAL PREDATORS

Section

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- 132.02 Requirements
- 132.03 Exceptions

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§ 132.01 DEFINITION.

The term ***SEXUAL PREDATOR*** shall mean an individual required to register under the Nebraska Sex Offender Registration Act, who has a high risk of recidivism as determined by the Nebraska State Patrol under Neb. RS 29-4013, and who has victimized a person 18 years of age or younger.
(Ord. 12-208-1, passed 12-2-2008)

§ 132.02 REQUIREMENTS.

No sexual predator, as defined herein, shall reside within 500 feet of any school meeting the requirements for accreditation or approval under Neb. RS Chapter 79, or a child care facility licensed pursuant to the Nebraska Child Care Act.
(Ord. 12-208-1, passed 12-2-2008)

§ 132.03 EXCEPTIONS.

This chapter shall not apply to sexual predators residing within a prison, treatment or correctional facility operated by the state or any political subdivision, nor to any sexual predator who has established a residence prior to July 1, 2006, and has not moved from that residence, or has established a residence after July 1, 2006, and the school or child care facility was established after the initial date of the sexual predator's residence at that location.
(Ord. 12-208-1, passed 12-2-2008)

§ 132.99 PENALTY.

Any person found to be in violation of this chapter shall be fined in an amount not to exceed \$500. A new violation shall be deemed to occur each 24 hours the violation continues.
(Ord. 12-208-1, passed 12-2-2008)