

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. MUNICIPAL OFFENSES**



## CHAPTER 130: MUNICIPAL OFFENSES

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### § 130.01 CRIMINAL MISCHIEF.

It shall be unlawful for any person to damage property of another intentionally or recklessly; or intentionally or recklessly tamper with property of another so as to endanger person or property; or intentionally or maliciously cause another to suffer pecuniary loss by deception or threat; provided, that the value of the property involved is under \$300.

(Neb. RS 28-519) (1999 Code, § 6-301) Penalty, see § 130.99

**§ 130.02 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; and/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.

(Neb. RS 28-520, 28-521) (1999 Code, § 6-302) Penalty, see § 130.99

**§ 130.03 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(5);

(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 an other person of the same or opposite sex.

(Neb. RS 28-806) (1999 Code, § 6-303) Penalty, see § 130.99

**§ 130.04 DISTURBING THE PEACE.**

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

(Neb. RS 28-1322) (1999 Code, § 6-304) Penalty, see § 130.99

**§ 130.05 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 18-1720, 28-1321) (1999 Code, § 6-305) Penalty, see § 130.99

**§ 130.06 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 such fence abuts a public sidewalk, street or alley. (Neb. RS 18-1720, 28-1321, 39-307) (1999 Code, § 6-306) Penalty, see § 130.99

**§ 130.07 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 he or she shall first remove all doors and make the same reasonably safe. (Neb. RS 18-1720, 28-1321) (1999 Code, § 6-307) Penalty, see § 130.99

**§ 130.08 WEEDS, LITTER, STAGNANT WATER.**

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

(B) The owner or occupant of any lot or piece of ground within the city 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 city is prohibited, except that grass, leaves and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses or worthless vegetation 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, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Within five days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner.

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(2) If unpaid for two months after such work is done, the city 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.

(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; building rubble;

(b) Wood, plaster, cement, brick or stone;

(c) Grass, leaves and worthless vegetation;

(d) Offal and dead animals; and

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

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

(Neb. RS 17-563) (1999 Code, § 6-308) (Ord. 783, passed 2-7-2005) Penalty, see § 130.99

***Cross-reference:***

*Similar provisions, see § 95.20*

### § 130.09 DISCHARGE OF FIREARMS.

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; provided, 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.

(Neb. RS 17-556) (1999 Code, § 6-309) Penalty, see § 130.99

**§ 130.10 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. (Neb. RS 17-207) (1999 Code, § 6-310) Penalty, see § 130.99

**§ 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. (Neb. RS 17-129, 17-556) (1999 Code, § 6-311) Penalty, see § 130.99

**§ 130.12 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. (1999 Code, § 6-312) Penalty, see § 130.99

**§ 130.13 CURFEW.**

(A) It shall be unlawful for any person under the age of 18 years to be or remain in or upon any of the streets, roads, alleys, parks or public places, or in any vehicle placed upon the streets, roads, alleys, parks or public places in the municipality, or in any business or place of public amusement or recreation, after the hour of 11:55 p.m. on Sunday night through Thursday night of each week, until 5:00 a.m. of the following day, unless accompanied by a parent, guardian or other adult person having the care, custody or control of the minor.

(B) The curfew for minors, established in this section, shall be extended on Friday evenings until 12:55 a.m. Saturday morning and on Saturday evenings to 12:55 a.m. Sunday morning.

(C) A citation for violation of this section may be issued by a police officer only if the officer reasonably believes that a violation has occurred and none of the defenses enumerated in this division (B) apply. It is a defense to a violation under this section that the person engaged in the prohibited conduct while:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;

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(4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(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 department about the minor's presence;

(7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city of Dallas, a civic organization, or another similar entity that takes responsibility for the minor;

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

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

(D) The weekend curfew shall terminate at 5:00 a.m. Saturday morning and Sunday morning respectively.

(1999 Code, § 6-313) Penalty, see § 130.99

**§ 130.14 ABANDONED AUTOMOBILES.**

(A) (1) No person shall cause any vehicle to be an abandoned vehicle as described in divisions (B)(1)(a), (B)(1)(b), (B)(1)(c) or (B)(1)(d) below.

(2) No person other than one authorized by the municipality 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.

(B) (1) A motor vehicle is an abandoned vehicle:

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

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

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

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

(e) If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under division (E) below.

(2) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an abandoned vehicle under this division (B).

(C) 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 municipality.

(D) (1) Except for vehicles governed by division (C) above, the municipality shall make an inquiry concerning the last-registered owner of an abandoned 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 municipality shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after five days from the date such notice was mailed; or

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

(3) If the municipality is notified that a lien or mortgage exists, the notice described in division (D)(2) above 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.

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

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

(b) Thirty days after the date the notice is mailed if the municipality 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 (D)(4) above, the municipality may retain for use, sell or auction the abandoned vehicle. If the municipality has determined that the vehicle should be retained for use, the municipality 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 municipality intends to retain the abandoned vehicle for its use and that title will vest in the municipality 30 days after publication.

(E) (1) If the municipal 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 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 (E) 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 (E), 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.

(F) Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the municipality, shall be held by the municipality without interest, for the benefit of the owner or lien holders 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 municipality.

(G) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the municipality, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the municipality or its contractual agent or as a result of any subsequent disposition.

(H) The last-registered owner of an abandoned vehicle shall be liable to the municipality for the costs of removal and storage of such vehicle.

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

(J) Any person who violates the provisions of this section is guilty of an offense. (Neb. RS 60-1901 through 60-1911) (1999 Code, § 6-314) (Ord. 744, passed 7-10-2000) Penalty, see § 130.99

**§ 130.15 JUNKED MOTOR VEHICLES.**

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

***JUNKED MOTOR VEHICLE.*** A motor vehicle on which the engine, wheels or other parts have been removed, altered, damaged or otherwise so treated or allowed to deteriorate that the motor vehicle is incapable of being drawn under its own power. A motor vehicle which has expired license plates or no license plates affixed thereto shall be presumed to be a ***JUNKED MOTOR VEHICLE***; provided, that such presumption may be rebutted.

***MOTOR VEHICLE.*** A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transports persons or property or pulls machinery; the term ***MOTOR VEHICLE*** shall include, without limitation, automobiles, trucks, motorcycles, trailers, tractors, wagons, boats, campers and machinery.

***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, park or other state, county or municipally owned property.

(B) It shall be unlawful for any junked motor vehicle to be parked, left, stored or be permitted to park or stand on private property in excess of ten days; provided however, that the junked motor vehicle shall not be in violation if the junked motor vehicle shall be enclosed within a building or screened from public view by solid fencing, trees or shrubbery.

(C) Any junked motor vehicle parked, left, permitted or stored on private property in excess of ten days and not enclosed in a building or screened as described in division (B) above, is hereby declared to be a nuisance. If the owner fails to remove such junked motor vehicle, after five days' notice, the municipality through its employees or officers, shall remove the junked motor vehicle or cause it to be removed, and shall assess the cost thereof against the property so benefitted. The municipality, by and through its employees or officers shall have the right to enter upon said premises and remove the junked motor vehicle therefrom, and assess the cost of such removal thereof against the property from which the same is removed, which assessment of cost shall be certified by the Municipal Clerk to the County Treasurer, and the same shall become a lien against the property the same as any special assessment which may be assessed against said property. In the event the owner of said property does not reclaim said property within ten days after the same has been removed by the municipality, the municipality shall have the right to sell, destroy or otherwise dispose of said property. To reclaim said property, the owner must reimburse the municipality for all costs incurred in the removal thereof.

(D) Nothing in this section shall prevent a lawful business enterprise, operating in an appropriate commercial manner, to apply to the governing body of the municipality for a variance from this section to use a junked motor vehicle, as defined herein, for a lawful and commercial purpose.

(1999 Code, § 6-315) Penalty, see § 130.99

**§ 130.16 DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN CONTAINER.**

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

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

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

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

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

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

***ALCOHOLIC BEVERAGE.*** 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; wine of not less than 0.5% of alcohol by volume; or distilled spirits which is that substance known as ethyl alcohol, ethanol or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. ***ALCOHOLIC BEVERAGE*** does not include trace amounts not readily consumable as a beverage;

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

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

1. That contains any amount of alcoholic beverage; and
2. That is open or has a broken seal; or 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 such area. ***PASSENGER AREA*** does not include the

area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(Neb. RS 53-186, 60-6,211.08) (1999 Code, § 6-316) (Ord. 744, passed 7-10-2000) Penalty, see § 130.99

### § 130.17 SEXUAL PREDATOR RESIDENCY RESTRICTIONS.

#### (A) *Findings and intent.*

(1) The state legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled municipalities to restrict such persons' place of residency as provided in the Sexual Predator Residency Restriction Act.

(2) Sex offenders who prey on children and who are high risks to repeat such acts present an extreme threat to public safety. The cost of sex offender victimization to these children and to society at large, while incalculable, is exorbitant.

(3) It is the intent of this ordinance to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside.

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

***CHILD CARE FACILITY.*** A facility licensed pursuant to the Child Care Licensing Act.

***RESIDE.*** To sleep, live or dwell at a place, which may include more than one location, and may be mobile or transitory.

***SCHOOL.*** A public, private, denominational or parochial school which meets the requirements for state accreditation or approval.

***RESIDENCE.*** A place where an individual sleeps, lives or dwells, which may include more than one location, and may be mobile or transitory.

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

***SEXUAL PREDATOR.*** An individual who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of 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.

(C) *Sexual predator residency restrictions; penalties; exceptions.*

(1) *Prohibited location of residence.* It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility.

(2) *Measure of distance.* For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

(3) *Penalties.* A person who violates this section shall be punished as provided generally in the code.

(4) *Exceptions.* This section shall not apply to a sexual predator who:

(a) Resides within a prison or correctional or treatment facility operated by the state or a political subdivision;

(b) Established a residence before July 1, 2006, and has not moved from that residence;  
or

(c) Established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(Ord. 797, passed 11-6-2006) Penalty, see § 130.99

**Statutory reference:**

*Sexual Predator Residency Restriction Act, Laws 2006, LB 1199, §§ 27 to 29;  
Neb. RS 29-4003 and 29-4013*

**§ 130.18 PUBLIC NUDITY.**

(A) It shall be unlawful for a person to, knowingly or intentionally, in a public place or in any place open to the public, appear in a state of nudity.

(B) **NUDITY** means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering on any part of the areola and nipple, or the showing of covered male genitals in a discernibly turgid state.

(C) This section shall not apply to:

(1) Any theater, concert hall, art center, museum or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibit or performance;

(2) Any dressing/changing room or restroom facility open to the public;

- (3) Any person under 12 years of age; or
- (4) Mothers who are breastfeeding.

(D) The penalty upon conviction of an offense of public nudity shall be as set forth in § 130.99. (Ord. 826, passed 7-11-2011) Penalty, see § 130.99

**§ 130.99 PENALTY.**

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) 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. (Neb. RS 17-505, 18-1720, 18-1722) (1999 Code, § 6-401) (Ord. 744, passed 7-10-2000)

