

## **TITLE XIII: GENERAL OFFENSES**

### **Chapter**

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#### **131.OFFENSES AGAINST PUBLIC ORDER**

#### **132.OFFENSES AGAINST PUBLIC HEALTH AND SAFETY**



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## CHAPTER 130: PROPERTY OFFENSES

### § 130.01 INJURY TO TREES.

It shall be unlawful for any person purposely or carelessly and without lawful authority to cut down, carry away, injure, break down or destroy any fruit, ornamental, shade or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the City Council to do so, and the written permit of the City Council in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.  
(1977 Code, § 6-308) Penalty, see § 10.99

### § 130.02 TRESPASSING IN CITY PARK.

(A) (1) The Valentine City Park shall be closed between the hours of 11:00 p.m. and 6:00 a.m. to all members of the public except those persons who are using the Valentine City Park as an overnight camp ground.

(2) No person shall be permitted to camp in the City Park longer than five consecutive nights.

(3) Any person who enters the Valentine City Park between the hours of 11:00 p.m. and 6:00 a.m. except for the lawful use of the park as an overnight public camping ground or any person remaining camped in the City Park for more than five consecutive nights shall be deemed a trespasser and subject to arrest for criminal trespass pursuant to state law.

(B) For purposes of enforcing this section, the police officers are specifically empowered to enter upon the City Park and make arrests.

(1977 Code, § 6-338) (Ord. 89-957M, passed 11-20-1989) Penalty, see § 10.99

### **§ 130.03 POSTED ADVERTISEMENTS.**

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

(1977 Code, § 6-315) Penalty, see § 10.99

### **§ 130.04 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.

(1977 Code, § 6-316) Penalty, see § 10.99

### **§ 130.05 DISTURBING STREET OR PUBLIC GROUNDS.**

It is hereby declared unlawful for any person to remove, disturb or take away from any street, alley or public grounds any dirt, earth, stones or other materials forming a part of such street, alley or public grounds without first having obtained written permission to do so from the City Council.

(1977 Code, § 6-334) Penalty, see § 10.99

### **§ 130.06 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.

(1977 Code, § 6-331) Penalty, see § 10.99

#### ***Statutory reference:***

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

**§ 130.07 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.

(1977 Code, § 6-333) 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*

**§ 130.08 ELECTRICAL INTERFERENCE.**

(A) 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.

(B) 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 § 10.99

***Statutory reference:***

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



Section

- 131.01 Disorderly conduct
- 131.02 Curfew
- 131.03 Panhandling
- 131.04 Street games
- 131.05 Obstruction of public ways
- 131.06 Window peeping

**CHAPTER 131: OFFENSES AGAINST PUBLIC ORDER**

**§ 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.

(1977 Code, § 6-324) 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 CURFEW.**

(A) It shall be unlawful for any minor person to be upon the public streets or other public places, vacant lots or other unsupervised places, within the city between the hours of:

(1) 11:00 p.m. to 5:00 a.m. of the following day, of all days of the week, for any person under the age of 16 years; and

(2) 12:00 a.m. to 5:00 a.m. of the following day, of all days of the week, for those persons of 16 and 17 years of age.

(B) Any person who would otherwise be in violation of the above provisions of this section, shall not be in violation if any of the following exceptions apply:

(1) When the minor person is accompanied by a parent, guardian or other adult person having the care or custody of such minor person;

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(2) When the minor person is accompanied by an adult authorized by a parent, guardian or other adult person having the care or custody of such minor person, to take the person's place in accompanying the minor for a designated period of time and purpose within a specified area;

(3) When the minor person is upon an emergency errand or legitimate business as directed by his or her parent, guardian or other adult person having the care or custody of such minor person;

(4) When the presence of such minor is as the result of some legitimate employment, trade, profession or occupation in which the minor person is engaged;

(5) When the minor person is upon the sidewalk or property where the minor resides;

(6) When the minor person is returning home from a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event, or any such activity of the kind normally attended by minors 17 years and under; provided that when such activity terminates after or less than one hour prior to the respective curfews, the curfew shall commence one hour after the termination of such activity;

(7) When the minor is, with parental consent, engaged in normal interstate travel through the city, or originating or terminating in the city; and

(8) When the minor is married or has been married pursuant to state law, or is emancipated.

(C) It shall be unlawful for the parent, guardian or other adult person having the care or custody of a minor person to allow or permit such minor person to do any act which is prohibited by this section.

(D) No minor person arrested under the provisions of this section shall be placed in confinement until he or she has been taken home, or the parent, guardian or other adult person having the care or custody of such minor person has been notified, and the arresting officer has ascertained whether such minor person is within the control of his or her parents, guardian or other adult person having the care or custody of the minor person; and if such parent, guardian or other adult person having the care or custody of the minor person shall state to such arresting officer that the minor cannot be controlled by them, then such minor may be proceeded against. Otherwise, the parent, guardian or other adult person having the care or custody of the minor person may also be proceeded against.

(E) Any minor under the age of 16 years of age violating the provisions of this section shall be dealt with in accordance with the Juvenile Court Law of the state and procedure thereunder. Any other person violating this section shall be served with a citation to appear in court, and upon conviction be fined as set forth in § 10.99.

(1977 Code, § 6-341) (Ord. 98-1042M, passed 7-20-1998; Ord. 99-1051, passed 1-18-1999) Penalty, see § 10.99



**§ 131.03 PANHANDLING.**

It shall be unlawful for any person to beg in a public place, or to go about from door to door, or place themselves in the streets, or other public places, for the purpose of begging or receiving alms. (1977 Code, § 6-340) (Ord. 97-1015M, passed 3-17-1997) Penalty, see § 10.99

**§ 131.04 STREET GAMES.**

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

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*

**§ 131.05 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*

**§ 131.06 WINDOW PEEPING.**

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

(Neb. RS 28-311.01) (1977 Code, § 6-328) Penalty, see § 10.99



Section

*General Provisions*

**CHAPTER 132: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY**

- 132.01 Maintaining a nuisance
- 132.02 Putting carcass or filthy substance into well, spring, brook or stream
- 132.03 Prohibited fences
- 132.04 Littering
- 132.05 Raising or producing stagnant water

*Weapons Offenses*

- 132.20 Discharge of firearms
- 132.21 Hunting prohibited
- 132.22 Slingshots, air guns, BB guns

*Motor Vehicle and Highway Offenses*

- 132.35 Abandoned automobiles
- 132.36 Unlicensed or inoperable vehicles

***Cross-reference:***

*Property offenses, see Ch. 130*

*Offenses against public order, see Ch. 131*

**GENERAL PROVISIONS**

**§ 132.01 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 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, noisome or offensive smells, becomes injurious and dangerous to the health, comfort or property of individuals or the public; the obstructing or impeding, without legal authority, of the passage

of any navigable river, harbor or collection of water; or 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 the obstructing or encumbering by fences, building, structures or otherwise of any of the public highways or streets or alleys of the city, shall be deemed nuisances.

(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

#### **§ 132.02 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

#### **§ 132.03 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.

(1977 Code, § 6-330) Penalty, see § 10.99

***Statutory reference:***

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

#### **§ 132.04 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) (1977 Code, § 6-311) Penalty, see § 10.99

### **§ 132.05 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

## **WEAPONS OFFENSES**

### **§ 132.20 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.

(1977 Code, § 6-317) Penalty, see § 10.99

**Statutory reference:**

*Authority to regulate, see Neb. RS 17-556*

### **§ 132.21 HUNTING PROHIBITED.**

It shall be unlawful for any person to hunt, or to fire or discharge any gun, pistol, fowling piece, sling shot, air gun, BB gun, bow and arrow or cross bow on any posted city-owned real estate designated "no hunting." The City Council shall, by resolution, designate such areas of city-owned real estate for no hunting and cause the same to be posted accordingly. Hunting on all other areas of city-owned real estate shall be by written permission from the City Council or its appointee.

(1977 Code, § 6-339) (Ord. 91-973M, passed 12-16-1991) Penalty, see § 10.99

**§ 132.22 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. (1977 Code, § 6-318) Penalty, see § 10.99

***MOTOR VEHICLE AND HIGHWAY OFFENSES*****§ 132.35 ABANDONED AUTOMOBILES.**

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

***ABANDONED VEHICLE.***

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

1. If left unattended, with no license plates or valid “In Transit” stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;
2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;
3. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;
4. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
5. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under 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 permission of the owner, or after permission of the owner is terminated;

4. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) 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 \$250 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.

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

(a) It will be sold or will be offered at public auction after 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 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 subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related



to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

(Neb. RS 60-1903.01)

(E) If a state agency caused an abandoned vehicle described in division (A)(a)5. or (A)(b)4. 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)

(F) Any proceeds from the sale of an abandoned vehicle in the city's custody less any expenses incurred by the city shall be held by the city without interest, for the benefit of the owner or lienholders of such vehicle for a period of 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)

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

(Neb. RS 60-1906)

(H) No person shall cause any vehicle to be an abandoned vehicle as described in division (A)(a)1., (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)

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

(Neb. RS 60-1908)

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

(Neb. RS 60-1909)

(K) Any person violating the provisions of this section shall be guilty of an offense.  
(Neb. RS 60-1911) (1977 Code, § 6-336) Penalty, see § 10.99

**Statutory reference:**

*Motor Vehicle Registration Act, see Neb. RS 60-301*

**§ 132.36 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. (1977 Code, § 6-337) Penalty, see § 10.99

***Statutory reference:***

*"In Transit" stickers, see Neb. RS 60-376*