

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. OFFENSES IN GENERAL**

**131. PUBLIC NUDITY/INDECENCY**

**132. SEXUAL PREDATORS**



## CHAPTER 130: OFFENSES IN GENERAL

### Section

- 130.01 Criminal trespass
- 130.02 Littering
- 130.03 Drinking in public
- 130.04 Misrepresentation by minor
- 130.05 Prostitution
- 130.06 Keeping a place of prostitution
- 130.07 Posting
- 130.08 Discharge of firearms
- 130.09 Slingshots, air guns, BB guns
- 130.10 Disturbing the peace
- 130.11 Disorderly conduct
- 130.12 Obstructing water flow
- 130.13 Weeds, litter, stagnant water
- 130.14 Hitching rides
- 130.15 Abandoned automobiles
- 130.16 Unlicensed or inoperable vehicles
- 130.17 Signs, traffic-control devices, surveillance devices; defacing or interfering with
- 130.18 Maintaining a nuisance or violating zoning or subdivision regulations
- 130.19 Hunting, trapping of animals
- 130.20 Use of tobacco to persons under the age of 21
- 130.21 Sale of tobacco to persons under the age of 21
- 130.22 Misrepresentation by person under the age of 21 to obtain tobacco
- 130.23 Criminal mischief
- 130.24 Gambling
  
- 130.99 Penalty

### § 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:

(1) 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

(2) 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. 2018-28, passed 8-20-2018) 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, highway right-of-way, and alleys free of any growth of ten inches or more in height of weeds, grasses, or worthless vegetation.

(C) The area of the highway right-of-way that an abutting property owner is responsible for maintaining will be that part of the right-of-way from the property owner's property line to the asphalt or concrete surface of the highway.

(D) 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.

(E) It is hereby declared to be a nuisance to permit or maintain any growth of ten 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 highway right-of-way, streets, or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

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

(G) (1) Notice to abate and remove such nuisance shall be given by certified mail, personal service, or 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 five days after receipt by certified mail, personal service, or 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 that appeal fails, the municipality may have such work done.

(H) The City of Alma shall be responsible to be sure that the water flows in the drainage ditches along the highway right-of-ways, streets, and alleys so that water does not become stagnant in the drainage ditches. Any changes to maintain flow shall be left in a maintainable condition.

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

***LITTER.*** Includes but is not limited to:

- (a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;
- (b) Wood, plaster, cement, brick, or stone building rubble;
- (c) Grass, leaves, and worthless vegetation except when used as ground mulch or in a compost pile;
- (d) Offal and dead animals; and
- (e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

**WEEDS.** Includes, but are not limited to: bindweed (*convolvulus arvensis*), puncture vine (*tribulus terrestris*), leafy spurge (*euphorbia esula*), Canada thistle (*circium 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 (*circium lanceolatum*), buckthorn (*Rhamnus sp.*) (tourn), hemp plant (*cannabis sativa*), and ragweed (*ambrosiaceae*).

(1993 Code, § 6-314) (Ord. 2022-2, passed 12-15-2021) 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) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **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 and lienholder under division (D) of this section;
- or

6. If removed from private property by the city pursuant to a city ordinance or this Code.

(b) An all-terrain vehicle or minibike is an **ABANDONED VEHICLE**:

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

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

3. If left unattended for more than 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 and lienholder under division (D) of this section; or

5. If removed from private property by the city pursuant to a city ordinance or this Code.

(c) A **MOBILE HOME** is an abandoned vehicle if left in place on private property for more than 30 days after a local governmental unit, pursuant to an ordinance or resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in Neb. RS 60-1903.

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

(2) **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.

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

(4) **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 to the city shall be issued at no cost to the city. (Neb. RS 60-1902)

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

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

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

(2) The city shall notify the last-registered owner, if any, 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 (b) of this section also notifies the city that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

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

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

(b) Thirty days after the date the notice is mailed if the city will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(5) After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the city may retain for use, sell, or auction the abandoned vehicle. If the city has determined that the vehicle should be retained for use, the city shall, at the same time that the notice, if any, is mailed, publish 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 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) (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 division is subject to Neb. RS 52-601.01 to 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 towed away under this division is subject to Neb. RS 52-601.01 to 52-605 and 60-2410 by the private towing service that towed the vehicle.

(4) For purposes 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)(1)(a)5. for (A)(1)(b)4. of this section 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)(1)(a)1., (A)(1)(a)2., (A)(1)(a)3., or (A)(1)(a)4. or (A)(1)(b)1., (A)(1)(b)2., or (A)(1)(b)3. of this section to be removed from public property in this city, the state agency shall deliver the vehicle to the city which shall have custody. (Neb. RS 60-1904)

(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)(1)(a)1., (A)(1)(a)2., (A)(1)(a)3., or (A)(1)(a)4. or (A)(1)(b)1., (A)(1)(b)2., or (A)(1)(b)3. of this section. (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 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)

(1993 Code, § 6-317) (Ord. 2022-50, passed 7-5-2022) 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 OR VIOLATING ZONING OR SUBDIVISION REGULATIONS.**

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) (Ord. 2018-17, passed 7-2-2018) Penalty, 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 TO PERSONS UNDER THE AGE OF 21.**

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. 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) (Ord. 2022-39, passed 6-20-2022) Penalty, see § 130.99

### **§ 130.21 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 any offense.

(B) (1) In order to further the public policy of deterring licensees or other persons from violating division (A) of this section, 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 such subsection 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 Nebraska Juvenile Code, 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 shall not be in violation of Neb. RS 28-1427.

(Neb. RS 28-1419) (Ord. 2022-38, passed 6-20-2022) Penalty, see § 130.99

### **§ 130.22 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) (Ord. 2022-28, passed 6-6-2022) Penalty, see § 130.99

**§ 130.23 CRIMINAL MISCHIEF.**

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

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

(B) Criminal mischief is an offense:

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

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

(Neb. RS 28-519) (Ord. 2018-27, passed 8-20-2018)

**§ 130.24 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, shall have an affirmative defense to possession of a gambling device described in division (C)(1) of this section 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, 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 Public Law 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 communication devices as defined in Neb. RS 28-833 or any equipment, components, peripherals, software, hardware, or accessories related to electronic communication 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 horse races by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horse race 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 Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, 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 Nebraska Racetrack Gaming Act.

(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)

(Ord. 2022-7, passed 5-2-2022)

### § 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)

(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 NUDDITY/INDECENCY

### Section

- 131.01 Purpose and intent
- 131.02 Public indecency
- 131.03 Nudity defined
- 131.04 Exception
- 131.05 Public place defined
- 131.06 Nuisance; abatement
- 131.07 Other nuisance provisions
  
- 131.99 Penalty

### § 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) 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 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) (Ord. 2022-22, passed 5-16-2022) 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

- 132.01 Definition
- 132.02 Requirements
- 132.03 Exceptions
  
- 132.99 Penalty

### § 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)