

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Disturbing the peace
- 130.02 Maintaining a nuisance
- 130.03 Prohibited fences
- 130.04 Appliances in yard
- 130.05 Weeds; litter; stagnant water
- 130.06 Littering
- 130.07 Obstruction of public ways
- 130.08 Curfew
- 130.09 Abandoned automobiles
- 130.10 Unlicensed or inoperable vehicles
- 130.11 Drinking on public property; possession of open alcoholic beverage container

- 130.99 Penalty

§ 130.01 DISTURBING THE PEACE.

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

(Neb. RS 28-1322) (1999 Code, § 6-301) Penalty, see § 130.99

Statutory reference:

Similar provisions, see Neb. RS 28-1322

§ 130.02 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 watercourse from its natural

Friend - General Offenses

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 nuisance shall be guilty of a violation of this section and in every 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 the offense, shall order every nuisance to be abated or removed.

(Neb. RS 28-1321) (1999 Code, § 6-302) Penalty, see § 130.99

Statutory reference:

Similar provisions, see Neb. RS 28-1321

§ 130.03 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. (1999 Code, § 6-303) Penalty, see § 130.99

Statutory reference:

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

§ 130.04 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. (1999 Code, § 6-304) Penalty, see § 130.99

Statutory reference:

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

§ 130.05 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 the 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 the 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 the work done. The costs and expenses of any work shall be paid by the owner.

(2) If unpaid for two months after the 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.

(1) **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;

(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.

(2) **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*).
(1999 Code, § 6-305) (Ord. 05-679, passed 3-1-2005) Penalty, see § 130.99

§ 130.06 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) (1999 Code, § 6-308) Penalty, see § 130.99

Statutory reference:

Similar provisions, see Neb. RS 28-523

§ 130.07 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, § 6-309) Penalty, see § 130.99

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

§ 130.08 CURFEW.

(A) It shall be unlawful for any minor under the age of 18 years, but older than 16 years of age, to loiter, idle, wander, stroll or play in or upon the public streets, avenues, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, or to ride in or operate any vehicle in or upon any street, alley or other public place, between the hours of 1:00 a.m. and 6:00 a.m.

(B) It shall be unlawful for any minor under the age of 16 years, to loiter, idle, wander, stroll or play in or upon the public streets, avenues, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places or to ride in any vehicle in or upon any street, alley or other public place, between the hours of 10:30 p.m. and 6:00 a.m.

(C) It is an exception to prosecution under divisions (A) and (B) above that the minor was:

(1) Accompanied by a parent, guardian or other adult person having the legal care, custody or control of the minor;

(2) On an errand at the direction of the minor's parent, guardian or other adult person having the legal care, custody or control of the minor and was using a direct route;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity including, but not limited to, newspaper delivery and was using a direct route;

(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 officer about the minor's presence;

Friend - General Offenses

(7) Attending an official school or religious activity or returning home by a direct route from an official school or religious activity;

(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 the laws of the state.
(1999 Code, § 6-310) Penalty, see § 130.99

§ 130.09 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***:

(i) 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;

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

(iii) 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;

(iv) 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;

(v) 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) of this section; or

(vi) 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***:

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

(ii) 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;

(iii) 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;

(iv) 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) of this section; or

(v) 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 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.

Friend - General Offenses

(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 (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 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 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) 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)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (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)

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

(1999 Code, § 6-311) (Ord. 00-11, passed 6-6-2000) Penalty, see § 130.99

Statutory reference:

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

§ 130.10 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. (1999 Code, § 6-312) Penalty, see § 130.99

Statutory reference:

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

§ 130.11 DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER.

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

ALCOHOLIC BEVERAGE.

(a) 1. 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;

2. Wine of not less than 0.5% alcohol by volume; or

3. 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.

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

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

LIMOUSINE. A luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than 14 persons

behind the driver with a physical partition separating the driver seat from the passenger compartment. *LIMOUSINE* does not include taxicabs, hotel or airport buses or shuttles, or buses.

OPEN ALCOHOLIC BEVERAGE CONTAINER. Except as provided in Neb. RS 53-123.04(3) and 53-123.11(1)(c), any bottle, can or other receptacle:

- (a) That contains any amount of alcoholic beverage; and
- (b) 1. That is open or has a broken seal; or
2. The contents of which are partially removed.

PASSENGER AREA. The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in the area. *PASSENGER AREA* does not include the area behind the last upright seat of the motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(B) Except as otherwise provided in this section, it is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this city.

(C) Except as provided in § 110.05 or division (D) below, it is unlawful for any person to consume an alcoholic beverage:

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

(D) This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the state Public Service Commission and subject to Neb. Admin. Code, Chapter 75, Article 3. The passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while the limousine or bus is in a public parking area or on any highway in this city if:

- (1) The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and
 - (2) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in the area.
- (Neb. RS 60-6,211.08) (1999 Code, § 6-313) (Ord. 00-13, passed 6-6-2000)

§ 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 code, 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.
(1999 Code, § 6-401) (Ord. 00-20, passed 6-6-2000)