

TITLE XIII: GENERAL OFFENSES

Chapter

130. PROPERTY OFFENSES

131. MISCELLANEOUS MISDEMEANORS

132. RESERVED

133. RESERVED

134. OFFENSES AGAINST PUBLIC MORALS

CHAPTER 130: PROPERTY OFFENSES

Section

- 130.01 Criminal mischief
- 130.02 Criminal trespass
- 130.03 Radio interference
- 130.04 Injury to trees
- 130.05 Posting
- 130.06 Removing material from public ways
- 130.07 Shoplifting
- 130.08 Throwing snowballs, rocks, and the like

§ 130.01 CRIMINAL MISCHIEF.

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

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

(2) Criminal mischief is a Class IV felony if the actor intentionally or maliciously causes pecuniary loss of five thousand dollars or more, or a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public service.

(3) Criminal mischief is a Class I misdemeanor if the actor intentionally or maliciously causes pecuniary loss of one thousand five hundred dollars or more but less than five thousand dollars.

(4) Criminal mischief is a Class II misdemeanor if the actor intentionally or maliciously causes pecuniary loss of five hundred dollars or more but less than one thousand five hundred dollars.

(5) Criminal mischief is a Class III misdemeanor if the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than five hundred dollars, or if his or her action results in no pecuniary loss. (Neb. RS 28-519) Penalty, see § 10.99

§ 130.02 CRIMINAL TRESPASS.

(A) It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof. (Neb. RS 28-520)

(B) It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to enter or remain in any place as to which notice against trespass is given by:

- (1) Actual communication to the actor;
- (2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
- (3) Fencing or other enclosure manifestly designed to exclude intruders. (Neb. RS 28-521) Penalty, see § 10.99

§ 130.03 RADIO INTERFERENCE.

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. 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 a misdemeanor. Penalty, see § 10.99

§ 130.04 INJURY TO TREES.

(A) 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.

(B) 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. Penalty, see § 10.99

§ 130.05 POSTING.

It shall be unlawful for any person, firm, or corporation to use the streets, sidewalks, or public grounds of the municipality for signs, signposts, or the posting of handbills or advertisements without written permission of the City Council. Penalty, see § 10.99

§ 130.06 REMOVING MATERIAL FROM PUBLIC WAYS.

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 the street, alley, or public grounds without first having obtained written permission to do so from the City Council. Penalty, see § 10.99

§ 130.07 SHOPLIFTING.

(1) A person commits the crime of theft by shoplifting when he or she, with the intent of appropriating goods or merchandise to his or her own use without paying for the goods or merchandise or to deprive the owner of possession of such goods or merchandise or its retail value, in whole or in part, does any of the following:

- (a) Conceals or takes possession of the goods or merchandise of any store or retail establishment;
- (b) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;
- (c) Transfers the goods or merchandise of any store or retail establishment from one container to another;
- (d) Interchanges the label or price tag from one item of a good or of merchandise with a label or price tag for another item of a good or of merchandise;
- (e) Causes the cash register or other sales recording device to reflect less than the retail price of the goods or merchandise; or
- (f) Alters, bypasses, disables, shields, or removes any security or alarm device attached to or housing any goods or merchandise of any store, including the use or possession of a security device countermeasure as defined in Neb. RS 28-511.03, prior to purchase of the goods or merchandise.

(2) In any prosecution for theft by shoplifting, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Such photograph shall be accompanied by a written statement containing the following:

- (a) A description of the property;
- (b) The name of the owner or owners of the property;
- (c) The time, date, and location where the shoplifting occurred;
- (d) The time and date the photograph was taken;
- (e) The name of the photographer; and
- (f) Verification by the arresting officer.

The purpose of this subsection is to allow the owner or owners of shoplifted property the use of such property during pending criminal prosecutions.

Prior to allowing the use of the shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading. (Neb. RS 28-514) Penalty, see § 10.99

§ 130.08 THROWING SNOWBALLS, ROCKS, AND THE LIKE.

It shall be unlawful for any person to propel or throw any snowball, rock, tomato, or other missile at any real or personal property of any description belonging to another. Penalty, see § 10.99

CHAPTER 131: MISCELLANEOUS MISDEMEANORS

Section

- 131.01 Definitions
- 131.02 Loitering and trespassing
- 131.03 Loitering in public places
- 131.04 Discharge of firearms
- 131.05 Slingshots, air guns, bb guns
- 131.06 Fireworks
- 131.07 Disturbing the peace
- 131.08 Disorderly conduct
- 131.09 Malicious mischief
- 131.10 Public indecency and indecent exposure
- 131.11 Window peeping
- 131.12 Littering
- 131.13 Obstruction of public ways

- 131.14 Weeds, litter, stagnant water
- 131.15 Abandoned automobiles
- 131.16 Curfew
- 131.17 Park hours
- 131.18 Use of engine or compression brakes
- 131.19 Weapons; carrying concealed weapons
- 131.20 Reserved
- 131.21 Urinating or defecating in public; prohibited
- 131.22 Violation; penalty

§ 131.01 DEFINITIONS.

For the purpose of this Article, the following definitions shall prevail:

PERSON. The term "person" is hereby defined to include all natural persons, artificial persons, including, but not limited to, firms, partnerships, associations, corporations, limited liability companies, political and corporate bodies, societies, communities, the public generally, individuals, joint stock companies, and shall include all aggregate organizations of any character whatsoever.

PUBLIC PROPERTY. The term "public property" is hereby defined to be any public right of way, street, alley, highway, park, or other State, County, or Municipality owned property.

PRIVATE PROPERTY. The term "private property" is hereby defined to be any privately owned property, which is not included within the definition of public property.

ABANDONED MOTOR VEHICLE. The term abandoned "motor vehicle" is hereby defined to be a vehicle left unattended:

1. Without current number plates affixed thereto for more than six (6) hours on any public property;
2. For more than twenty-four (24) hours on any public property except a portion thereof on which parking is legally permitted;
3. For more than forty-eight (48) hours after the parking of such vehicle shall become illegal;
4. For more than seven (7) days on private property if left initially without permission of the owner or after permission of the owner shall be terminated.

ENGINE OR COMPRESSION BRAKES. The term "engine or compression brakes" is hereby defined as any means used by which the engine on any motor vehicle is employed as a braking device by containing the engine's compression, thereby resulting in a rapid reduction in the engine's revolutions per minute. *(Amended by Ord. No. 98-18, 12/21/98, 01-07, 6/4/01)*

§ 131.02 LOITERING AND TRESPASSING.

It shall be unlawful for any person to loiter on or about or trespass private property without the consent of the owner, tenant, or the agent of said owner or tenant thereof. Any

person who violates this Section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.03 LOITERING IN PUBLIC PLACES.

It shall be unlawful for any person to loiter in or about or in any way obstruct or encumber any public property within the City, by lounging, or otherwise remaining, in or about the same, after being requested to move on by any Law Enforcement Official. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. Any person violating sections 131.02 or 131.03 of this Code shall be deemed guilty of a Class II Misdemeanor as defined by §131.22 of this Code. If and only if such violation is a first (1st) offense, the same may be disposed of pursuant to a Waiver of Appearance and Plea of Guilty, then, and in that event, the fine shall be twenty-five dollars (\$25). *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.04 DISCHARGE OF FIREARMS.

It shall be unlawful for any person, except an officer of the law in the discharge of his official duty, to fire or discharge any gun, pistol, or other fowling piece within the Municipality; Provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have prior written authorization from the Governing Body. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Ref. 17-556 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.05 SLINGSHOTS, AIR GUNS, BB GUNS.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the Municipality. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Ref. 17-556 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.06 FIREWORKS.

It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except as permitted by sections 91.70 to 91.78 of this Code. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Amended by Ord. 01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.07 DISTURBING THE PEACE.

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. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Ref. 28-818 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.08 DISORDERLY CONDUCT.

It shall be unlawful to knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct oneself in such a way as to breach the peace. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Ref. 17-129, 17-556 RS Neb.) (Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.09 MALICIOUS MISCHIEF.

It shall be deemed a misdemeanor for any person to willfully destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, structure, or thing of value which is located upon any government property, cemetery, or property of historic value. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code.

Any such offender shall also be liable, in an action for trespass in the name of the beneficial holder of said property, for all damages, which arise from the commission of such unlawful act. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.10 PUBLIC INDECENCY AND INDECENT EXPOSURE.

It shall be unlawful for any person, in a public place or on private premises, and under circumstances in which he or she knows or reasonably should know that his or her conduct may readily be observed from either a public place or other private premises,

(a) to perform an act of sexual penetration; (b) to fondle or caress the genitals of another person of the same or opposite sex; or (c) to intentionally or recklessly expose his or her genitals in such a manner or under such circumstances as to affront or alarm another person. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.11 WINDOW PEEPING.

It shall be unlawful for any person to go upon the private premise of another to look or peep into any window, door, or other opening in a building occupied by any other person. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.12 LITTERING.

It shall be unlawful for any person to throw, cast, lay, or drop on any public way or property any paper, scrap material, or other waste whatsoever, except in containers expressly for that purpose. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.13 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, ground cover or other obstruction inconvenient to, or inconsistent with, the public use of the same. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Amended by Ord. 01-07, 6/4/01, 02-03, 2/4/02, 07-05, 5/7/07)*

§ 131.14 WEEDS, LITTER, STAGNANT WATER.

- A. The owner or occupant of any lot or piece of ground within the Municipality shall drain or fill the lot or piece of ground 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 shall keep the lot or piece of ground and the adjoining street and alleys free of any growth of twelve inches (12") or more in height of weeds, grasses, or worthless vegetation, and free of any growth of eight inches (8") or more in height if, within the same calendar year, the Municipality has previously acted to remove weeds, grasses, or worthless vegetation exceeding twelve inches (12") in height on the same lot or piece of ground and south recovery of the costs and expenses of such work from the owner or occupant.
- C. The throwing, depositing, or accumulation of litter on any lot or piece of ground within the Municipality is prohibited; Provided that grass, leaves, and worthless vegetation may be used as ground mulch or in a compost pile.
- D. It is hereby declared to be a nuisance to permit, or maintain any growth of eight inches (8") or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground located within the corporate limits during any calendar year if, within the same calendar year, the city has previously acted to remove weeds, grasses, or worthless vegetation exceeding twelve inches (12") in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner or to litter or cause litter to be deposited or remain thereon except in property or to remain thereon except in property receptacles.
- E. Any owner or occupant of a lot or piece of ground shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code.
- F. Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. In the event that the owner of the lot or parcel of land abutting said sidewalk space within the Municipality is a non-resident of the Municipality or cannot be found therein the notice may be given to any person having the care, custody, or control of such lot or parcel of land. In the event that no one within the Municipality to whom notice can be given, it shall be the duty of the Building Inspector or his or her agent to post a copy of the notice on the premise. Within five (5) days after receipt 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. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the Municipality may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited 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 purposes of this section:

- (a) Litter shall include, but not limited to: (i) Trash, rubbish, refuse, garbage, paper, rags, and ashes; (ii) Wood, plaster, cement, brick, or stone building rubble; (iii) Grass, leaves, and worthless vegetation; (iv) Offal and dead animals; and (v) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and
- (b) Weeds shall include, but not be 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*), buckhorn (*rahmnus sp.*) (tourn), hemp plant (*cannabis sativa*), and ragweed (*ambrosiaceae*). (*Ref. 17-563.01, 18-1719 RS Neb.*) (*Amended by Ord. No.92-3, 5/4/92, 01-07, 6/4/01, 02- 03, 2/4/02, 07-05, 5/7/07; 10-06, 5/17/10*)

§ 131.15 ABANDONED AUTOMOBILES.

It shall be unlawful to abandon any automobile on the Municipal streets, highways, alleys, parks, or other property.

- A. If an abandoned vehicle at the time of abandonment has no number plates of the current license year affixed or valid registration and is of a wholesale value, taking in consideration the condition of the vehicle, of one hundred dollars (\$100.00) or less, title shall immediately vest in the City of Waverly.
- B. Except for vehicles governed by subsection (A) of this Section, the Law Enforcement Official shall make an inquiry as follows concerning the last registered owner of each abandoned vehicle in its custody:
 - 1. An abandoned vehicle with number plates affixed, to the jurisdiction which issued such number plates; or,
 - 2. An abandoned vehicle with no number plates affixed, to the Nebraska Department of Motor Vehicles.

- C. The Law Enforcement Official shall give notice to the last registered owner, if any, that the vehicle in question has been recovered as an abandoned vehicle and that, if unclaimed, it will be sold at public auction after five (5) days from the date such notice was mailed. If a lien or mortgage exists, such notice shall also be sent to the lien holder or mortgage. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. Notice required by this subsection shall be either by personal service or by certified mail. If the owner, lien holder, or mortgage of such abandoned vehicle is known and does not claim the automobile within five (5) days from the date such notice was mailed, or if word is received by the Municipality from the agency described in subsection (B) of this Section that the owner is unknown, title shall immediately vest in the City of Waverly and the vehicle may be sold.
- D. Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the City shall be held by the Municipality without interest, for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such two (2) year period, such proceeds shall then be paid into the General Fund of the Municipality.
- E. The last registered owner of an abandoned vehicle shall be liable to the City of Waverly for the cost of removal and storage of such vehicle.
- F. Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle shall be removed nor the State of Nebraska nor the City of Waverly 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 as a result of any subsequent disposition.
- G. Any person who abandons a motor vehicle as hereinbefore defined shall be deemed to be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. If such violation is disposed of pursuant to a Waiver of Appearance and Plea of Guilty, the fine shall be twenty-five dollars (\$25). (*Ref. 60-1901 through 60-1911 RS Neb.*)(*Amended by Ord. 01-07, 6/4/01, 02-03, 2/4/02, 07-05, 5/7/07*)

§ 131.16 CURFEW.

It shall be unlawful for any minor under the age of seventeen (17) years to travel on or be on any public street, alley, or other public place, between the hours of twelve (12:00) o'clock midnight of any day and five (5:00) o'clock a.m. of the following day except under the following circumstances:

- A. The minor is accompanied by a parent, a legal guardian, a person who stands in loco parentis to the minor, or a person to whom legal custody has been given by court order.
- B. The minor is accompanied by an adult authorized by the parent to take the parent's place in accompanying the minor for a designated period of time and specific purpose within a specified area;

- C. The minor is exercising first amendment rights protected by the Constitution of the United States, such as free exercise of religion, freedom of speech, and the right of assembly;
- D. In case of a bona fide emergency;
- E. The minor is traveling to or returning home from, and within thirty minutes of the commencement or termination of employment.

Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Amended by Ordinance No. 90-10, 12/17/90, 01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.17 PARK HOURS.

It shall be unlawful for any person to loiter, wander, stroll, loaf, or play in or upon any of the City parks between the hours of twelve (12:00) o'clock midnight on any day and five (5:00) o'clock a.m. of the following day. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Amended by Ord.01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.18 USE OF ENGINE OR COMPRESSION BRAKES.

Except in emergency situations, it shall be unlawful for any person to use engine or compression brakes within the Municipality. Any person who violates this section shall be guilty of a Class I Misdemeanor as defined by §131.22 of this Code. *(Ord. No. 98-18, 12/21/98, 01-07, 6/4/01, 07-05, 5/7/07)*

§ 131.19 RESERVED.

§ 131.21 URINATING OR DEFECATING IN PUBLIC; PROHIBITED. It shall be unlawful for any person to urinate or defecate on a public street, alley, or any other property, public or private, open to or visible to the public. This section shall not apply to urinating or defecating in any restroom facility in a manner for which that facility was designed. *(Ord. 13-04, 5/21/13)*

§ 131.22 VIOLATION; PENALTY. Unless expressly provided otherwise, for purposes of this Chapter misdemeanors are divided into two (2) classes which are distinguished from one another by the following penalties which are authorized upon conviction.

Class I Misdemeanor	Maximum: Five hundred dollar (\$500) fine
	Minimum: One hundred dollar (\$100) fine
Class II Misdemeanor	Maximum: One hundred dollar (\$100) fine
	Minimum: Twenty-five dollar (\$25) fine

(Amended by Ord.01-07, 6/4/01, 07-05, 5-7-07)

CHAPTER 132: RESERVED

CHAPTER 133: RESERVED

CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS

Section

- 134.01 Prostitution
- 134.02 Public indecency
- 134.03 Gambling
- 134.04 Reserved
- 134.05 Reserved
- 134.06 Sexual predator; findings and intent
- 134.07 Sexual predator; definitions
- 134.08 Sexual predator; residence prohibition; penalties; exceptions
- 134.09 Property owners prohibited from renting real property to certain sexual predators; penalties
- 134.10 Violation

§ 134.01 PROSTITUTION.

It shall be unlawful for any person to perform, offer, or agree to perform any act of sexual contact or penetration, as defined in Neb. RS 28-318, with any person not his or her spouse in exchange for money or other things of value. (Neb. RS 28-801) Penalty, see § 10.99

§ 134.02 PUBLIC INDECENCY.

It shall be unlawful for any person, 18 years of age or over, to perform or procure or assist any other person to perform in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

- (A) An act of sexual penetration as defined by Neb. RS 28-318(6);
- (B) An exposure of the genitals of the body with intent to affront or alarm any person;
or
- (C) A lewd fondling or caressing of the body of another person of the same or opposite sex. (Neb. RS 28-806) Penalty, see § 10.99

§ 134.03 GAMBLING.

(A) For purposes of this section, the definitions found in Neb. RS 28-1101 shall be used.

- (B) It shall be unlawful for any person to:
 - (1) Engage in bookmaking;

(2) Receive money in connection with any unlawful gambling scheme; or

(3) Knowingly participate in any unlawful gambling as a player by placing a bet.
(Neb. RS 28-1102 through 28-1104)

(C) It shall be unlawful for any person to manufacture, sell, transport, place, possess, or conduct or negotiate 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.
(Neb. RS 28-1107)

§ 134.04 RESERVED.

§ 134.05 RESERVED.

§ 134.06 SEXUAL PREDATOR; FINDINGS AND INTENT.

(A) Sexual Predators present an extreme threat to the public safety. Sexual Predators are extremely likely to use physical violence or to repeat their offenses. And most Sexual Predators commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual predator victimization to society at large, while incalculable, extremely exorbitant.

(B) It is the intent of this ordinance to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators are prohibited from establishing temporary or permanent residence. (Ords. 2935, 6-6-06; 3017, 12-20-11)

§ 134.07 SEXUAL PREDATOR; DEFINITIONS.

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(A) **SEXUAL PREDATOR** shall be any person defined in the Sexual Predator Residency Restriction Act (Neb. Rev. Stat. §§29-4015 to 29- 4017, inclusive) or any amendments thereto.

(B) **PERMANENT RESIDENCE** shall mean a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

(C) **TEMPORARY RESIDENCE** shall mean a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence. (Ords. 2935, 6-6-06; 3017, 12-20-11)

§ 134.08 SEXUAL PREDATOR; RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS.

(A) *Prohibited Location of Residence.* It is unlawful for any Sexual Predator to establish a permanent residence or temporary residence within 500 feet of any school or licensed day care center.

(B) *Measurement of Distance.* For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of a school or licensed day care center.

(C) *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$500.00.

(D) *Exceptions.* A person residing within 500 feet of any school or licensed day care center does not commit a violation of this section if any of the following apply:

(1) The person resides within a prison, correctional facility or treatment facility operated by the state or a political subdivision;

(2) The person established a residence before July 1, 2006, and has not moved from that residence; or

(3) The person has established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Ords. 2935, 6-6-06; 3017, 12-20-11)

§ 134.09 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL PREDATORS; PENALTIES.

(A) It is unlawful to let or rent any place, structure, or part thereof or any trailer or other conveyance with the knowledge that it will be used as a permanent residence or a temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this ordinance if such place, structure, or part thereof or trailer or other conveyance is located within 500 feet of any school, day care center, or park.

(B) A property owner's failure to comply with the provisions of this section shall constitute a violation of this section and shall subject the property owner to a fine of \$500.00. The City may seek any other relief as otherwise provided by law. (Ords. 2935, 6-6-06; 3017, 12-20-11)

§ 134.10 VIOLATION.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this ordinance shall be deemed to have committed a new violation every twenty- four (24) hours of such failure to comply. (Ords. 2935, 6-6-06; 3017, 12-20-11)