

CHAPTER 13

OFFENSES

Article

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ARTICLE 1

OFFENSES AGAINST THE PERSON

Section

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| <u>13-1-1</u> | <u>Concealed weapons; carrying; prohibited.</u> |
| <u>13-1-1.1</u> | <u>Concealed Handguns; prohibited on city property.</u> |
| <u>13-1-2</u> | <u>Assaults; threats; battery; prohibited.</u> |
| <u>13-1-3</u> | <u>Assaults; provoking; prohibited.</u> |
| <u>13-1-4</u> | <u>Violations; classification.</u> |

13-1-1. Concealed weapons; carrying; prohibited.

Any person who carries a weapon or weapons concealed on or about his or her person, such as a handgun for which no permit has been obtained through the Concealed Handgun Permit Act, firearm, knife, or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon, commits the offense of carrying a concealed weapon. The terms “knife,” and “brass or iron knuckles” shall have the meanings given them in Chapter 28 of the statutes of Nebraska. (Ord. 3978, 2008)

13-1-1.1. Concealed Handguns; prohibited on city property.

Pursuant to the Concealed Handgun Permit Act, the city does hereby prohibit permit holders under the Concealed Handgun Permit Act from carrying concealed handguns into all buildings owned or leased by the city.

13-1-2. Assaults; threats; battery; prohibited.

It is hereby declared unlawful for any person within the City to assault or threaten another in a menacing manner or strike or injure another. Any person who shall violate any of the provisions of this section shall be deemed guilty of misdemeanor. (Ord. 1116)

13-1-3. Assaults; provoking; prohibited.

It shall be unlawful for any person or persons within the City intentionally to provoke or attempt to provoke an assault upon himself or another by the uttering of grossly vile or insulting epithets applied to the assailed party or one so attempting to commit an assault, or to curse or swear at a person or use grossly vile names, or slander or abuse the character of another person with the intention of provoking an assault by such person. (Ord. 1116)

13-1-3.1. Spitting, expectorating, prohibited.

It shall be unlawful for any person within the City to intentionally, knowingly, or recklessly spit or expectorate upon any person within the City. (Ord. 3622, 1999)

This section renumbered by the City Clerk pursuant to §14-2-9.

13-1-4. Violations; classification.

A violation of any provision of this Article is a Class I violation.

ARTICLE 2

OFFENSES RELATING TO PROPERTY

Section

<u>13-2-1</u>	<u>Larceny; prohibited.</u>
<u>13-2-2</u>	<u>Theft by shoplifting.</u>
<u>13-2-3</u>	<u>Destruction of property; prohibited.</u>
<u>13-2-4</u>	<u>Breaking glass; defacing buildings; prohibited.</u>
<u>13-2-5</u>	<u>Trees; destruction; injuring; prohibited.</u>
<u>13-2-6</u>	<u>Public utility property; injuring; prohibited.</u>
<u>13-2-7</u>	<u>Posted advertisements; destruction; injuring; interference with; prohibited.</u>
<u>13-2-8</u>	<u>Molesting property; prohibited.</u>
<u>13-2-9</u>	<u>Entry, remaining on property; when prohibited.</u>
<u>13-2-9.1</u>	<u>Parking vehicle on property not owned by owner of the vehicle; when prohibited; removal; rights of City and owner of vehicle.</u>
<u>13-2-10</u>	<u>Same; specific restrictions.</u>

Nebraska Statutes

For statutory provisions on theft, see R.R.S. §28-510 et seq.; For provisions on criminal mischief, see R.R.S. §28-519; For provisions on trespass, see R.R.S. §28-520 et seq.

13-2-1. Larceny; prohibited.

It is hereby declared unlawful for any person within the City to steal any money, goods or chattels of any kind whatever. Any person who shall within the City steal property of any kind whatever, whether the same be wholly in money or wholly in property of some other character, or partly in money and partly in other property, of the value of less than three hundred dollars (\$300.00) shall be deemed guilty of a Class I violation.

13-2-2. Theft by shoplifting.

It shall be unlawful for any person to commit a theft by shoplifting. A person commits a theft by shoplifting when he or she, with the intent of appropriating merchandise to his or her own use without paying for the same or to deprive the owner of possession of such property or its retail value, in whole or in part, does any of the following:

- (1) conceals or takes possession of the goods or merchandise of any store or retail establishment,
- (2) alters the price tag or other price marking on goods or merchandise of any store or retail establishment,
- (3) transfers the goods or merchandise of any store or retail establishment from one container to another,
- (4) interchanges the label or price tag from one item of merchandise with a label or price tags for another item of merchandise, or
- (5) causes the cash register or other sales recording device to reflect less than the retail price of the merchandise.

A violation of any provision of this section is a Class I violation. (Ord. 2885, 1984)

13-2-3. Destruction of property; prohibited.

It shall be unlawful for any person within the city purposely, willfully, maliciously, or recklessly to destroy or injure or aid in destroying or injuring, in any manner, any real or personal property of any description, belonging to another person, or in charge of another as agent or factor. A violation of any provision of this section is a Class I violation. (Ord. 3358, 1994)

13-2-4. Breaking glass; defacing buildings; prohibited.

It shall be unlawful for any person or persons to wilfully, maliciously or wantonly break the glass or any part thereof, or otherwise mar, or in any manner deface any building, not his own, within the City. A violation of any provision of this section is a Class II violation. (Ord. 1116)

13-2-5. Trees; destruction; injuring; prohibited.

It shall be unlawful for any person or persons to wilfully, maliciously or wantonly cut down, destroy or injure, by girdling, tapping or otherwise, any tree not his own that is standing or growing for shade, ornament or any other useful purpose within the City. A violation of any provision of this section is a Class II violation. (Ord. 1116)

13-2-6. Public utility property; injuring; prohibited.

It shall be unlawful for any person or persons, company or association of persons to interfere with, cut, injure, remove, break, destroy or deface, any pole, wire, fixture, instrument or other property of any telegraph, telephone, cable television, electric or gas company or association used in the

operation of any telegraph, telephone, cable television, electric line or gas business within the City. A violation of any provision of this section is a Class II violation. (Ord. 1116)

13-2-7. Posted advertisements; destruction; injuring; interference with; prohibited.

It shall be unlawful for any person to wrongfully and maliciously tear down, deface, or cover up any posted advertisement, or bill of any person, firm or corporation when the same is rightfully posted and put up, and during the time such sign or advertisement shall be of value. A violation of any provision of this section is a Class II violation. (Ord. 1116)

13-2-8. Molesting property; prohibited.

It shall be unlawful for any person or persons within the City to wantonly or prankishly daub or mark the windows of others with soap or other substance, or remove signs, overturn out-buildings, ground swings, or in any manner disturb or molest any property of another at any time. A violation of any provision of this section is a Class II violation. (Ord. 1116)

13-2-9. Entry, remaining on property; when prohibited.

It shall be unlawful for any person, if he knows that he is not licensed or privileged to do so:

(1) to enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof, or

(2) to enter or remain in any place as to which notice against trespass is given by (a) actual communication to the actor, or (b) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders, or (c) fencing or other enclosure manifestly designed to exclude intruders. Provided, it is an affirmative defense to prosecution under subparagraph (1) above that the building or occupied structure was abandoned, and to a prosecution under either subparagraph (1) or subparagraph (2) above that the premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises, or that the actor reasonably believed that the owner of the premises or other person empowered to license access thereto would have licensed him to enter or remain.

(3) A violation of any provision of this section is a Class I violation. (Ord. 2885, 1984)

13-2-9.1 Parking vehicle on property not owned by owner of the vehicle; when prohibited; removal; rights of City and owner of vehicle.

(A) It shall be unlawful for any person to park a vehicle on any property which is not owned by the person parking the vehicle, where:

(1) Notice against trespass has been given by (a) actual communication to the actor, or (b) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders, or (c) fencing or other enclosure manifestly designed to exclude intruders, or

(2) Considering all relevant circumstances, a reasonable person would know that he or she is not licensed or privileged to do so.

(B) A violation of this section is a Class II violation.

(C) A police officer may remove or convey, or cause to be removed and conveyed, by towing or otherwise, any vehicle parked in violation of this section. The vehicle may be taken to the vehicle pound or to a lot maintained by a business which was hired to tow the vehicle.

(D) The disposition of a vehicle removed pursuant to this section, and the rights of the owner of

such a vehicle, shall be as provided in Chapter 22, Article 9 of this Municipal Code, except that section 22-9-6 shall have no application to vehicles removed pursuant to this section.

13-2-10. Same; specific restrictions.

Without limitation upon any restriction contained in section 13-2-9, it shall be unlawful for any person:

(1) to knowingly, between the hours of sunset and sunrise as established by the United States Nautical Almanac Office Publication of Sunrise and Sunset Tables, enter upon any privately owned real property which is not available to the use of the public unless such person has obtained the consent of the owner or person in possession or control thereof.

(2) to lodge, camp or sleep in any public way, park or place except at authorized camping areas, or

(3) to lodge in any vehicle, or to occupy any vehicle without the permission of the owner or person entitled to possession.

A violation of any provision of this section is a Class I violation. (Ord. 2885, 1984)

ARTICLE 3

OFFENSES AGAINST PUBLIC PEACE

(a) DISTURBING THE PEACE

Section

13-3-1 Disorderly conduct; prohibited.

13-3-2 Same; defined.

13-3-3 Disturbing peace; prohibited.

13-3-4 Begging, defined, prohibited.

13-3-5 to Reserved.

13-3-8

(b) DISORDERLY HOUSES

13-3-9 Disorderly house; defined.

13-3-10 Disorderly house; prohibited; nuisance.

13-3-11 Disorderly house; inmate; visiting; prohibited.

13-3-12 Disorderly house; abatement; procedure.

13-3-13 to Reserved.

13-3-14

(c) EXCESSIVE NOISE

13-3-15 Excessive noise; finding, declaration.

13-3-16 Prohibited.

<u>13-3-17</u>	<u>Standards; particular noises.</u>
<u>13-3-18</u>	<u>Exemptions.</u>
<u>13-3-19</u>	<u>Special permit.</u>
<u>13-3-20</u>	<u>Nuisance.</u>

Nebraska Statutes

For statutory provisions on disturbing the peace, see R.R.S. §28-1322.

(a) DISTURBING THE PEACE

13-3-1. Disorderly conduct; prohibited.

It shall be unlawful for any person or persons within the City to indulge or engage in any riotous, tumultuous or disorderly conduct; to take part in any disorderly assembly; to be an inmate of a disorderly house or attend or visit any such house; to fight by agreement or otherwise; to quarrel; to engage in lewd, indecent or lascivious behavior: or to do or engage in any other disorderly act or conduct tending to disturb the peace and quiet of the City. A violation of any provision of this section is a Class I violation. (Ord. 1116)

13-3-2. Same; defined.

Disorderly conduct shall include, but not be limited to:

- (1) threatening, abusive or insulting conduct or behavior, if uttered or, as the case may be, engaged in with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, on the part of other persons present,
- (2) language or other conduct or behavior which annoys and is uttered or, as the case may be, engaged in with intent to provoke a breach of the peace on the part of other persons present,
- (3) loitering or other conduct which obstructs or interferes with the passage of persons upon a public street, avenue, road, alley, bridge, sidewalk, highway or any public way or place used for the passage of persons, if the obstruction or interference continues or commences after the police have ordered the person or persons so doing to cease and desist or to move on, and
- (4) loitering about any school or public place at which children congregate, with an apparent intent to molest any child under the age of eighteen (18) years.

For the purposes of this section:

- (a) language, conduct or behavior shall be deemed to be threatening, abusive, insulting or annoying if it would be so regarded by a person of ordinary sensibilities in the community, and
- (b) “loiter” shall mean to linger, delay, be dilatory, stand, sit, saunter, lag behind, move slowly about, loaf or spend time idly. (Ord. 1918, 1972; Ord. 1116)

13-3-3. Disturbing peace; prohibited.

It shall be unlawful for any person or persons within the City, to disturb the peace and quiet of any other person, family or neighbor, on any public assembly or assemblies of persons for religious worship or for any other purpose, by any loud or unusual noise, boisterous laughing or talking, hollering, quarreling, swearing, obscene or indecent language, or by any other manner or device whatsoever. A violation of any provision of this section is a Class I violation. (Ord. 1116)

13-3-4. Begging, defined, prohibited.

1. It shall be unlawful for any person to beg if such begging occurs:
 - (a) Any time from one-half (½) hour after sunset to one-half (½) hour before sunrise;
 - (b) In a manner that involves the person begging knowingly engaging in conduct toward the person solicited that is intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety;
 - (c) In a manner that involves the person begging knowingly directing fighting words to the person solicited;
 - (d) In a manner that involves the person begging knowingly touching or grabbing the person solicited;
 - (e) In a manner that involves the person begging knowingly continuing to request the person solicited for a gift of money or thing of value after the person solicited has refused the beggar's initial request;
 - (f) In a manner that involves the person begging knowingly soliciting an at-risk person;
 - (g) On a sidewalk or other passage way in a public place used by pedestrians and is done in a manner that obstructs the passage of the person solicited or that requires the person solicited to take evasive action to avoid physical contact with the person begging or with any other person;
 - (h) Within one hundred (100) feet of an automatic teller machine;
 - (i) In a parking garage, parking lot or other parking facility; or
 - (j) When the person solicited is entering or exiting a parked motor vehicle, in a motor vehicle stopped on a street, or present within the patio or sidewalk serving area of a retail business establishment that serves food and/or drink.
2. As used in this section, the following terms shall have the meanings ascribed to them in this paragraph:
 - (a) *At-risk person* shall mean a natural person who is sixty (60) years of age or older, under eighteen (18) years of age, or who is a person with a disability. *A person with a disability* shall mean, for purposes of this section, a person of any age who suffers from one or more substantial physical or mental impairments that render the person significantly less able to defend against criminal acts directed toward such person than he or she would be without such physical or mental impairments. *A substantial physical or mental impairment* shall be deemed to include, without limitation, the loss of, or the loss of use of, a hand or foot; loss of, or severe diminishment of, eyesight; loss of, or severe diminishment of, hearing; loss of, or severe diminishment of, the ability to walk; and any developmental disability, psychological disorder, mental illness or neurological condition that substantially impairs a person's ability to function physically or that substantially impairs a person's judgment or capacity to recognize reality or to control behavior.
 - (b) *Beg* shall mean to knowingly approach, accost or stop another person in a public place and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for a gift of money or thing of value.
 - (c) *Knowingly* shall mean, with respect to the conduct or circumstances described in this section, that a person is aware that such person's conduct is of that nature or that the circumstances exist. With respect to a result of such conduct, this means that a person

is aware that such person's conduct is practically certain to cause the result.

- (d) *Obscene* shall mean a blatantly offensive description of an ultimate sexual act or solicitation to commit an ultimate sexual act, whether or not such ultimate sexual act is normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.
- (e) *Obstruct* shall mean to render impassible or to render passage unreasonably inconvenient or hazardous. (Ord. 3874, 2005)

13-3-5 to 13-3-8. Reserved.

(b) DISORDERLY HOUSES

13-3-9. Disorderly house; defined.

(1) Any room, house, building, structure, place or premises wherein or upon any unlawful or illegal acts are committed in violation of local state or federal law, or which are kept in such a manner as to disturb, annoy or scandalize the public generally, or persons within a particular neighborhood, is hereby declared to be a disorderly house.

(2) Any room, house, building, structure, place or premises which are kept, maintained, used, erected, established or run for any of the following purposes is hereby declared to be a disorderly house, provided however, that this shall not be deemed or construed to be conclusive, limiting or restrictive:

- (a) Prostitution, pandering or public indecency as those terms are defined in the statutes of Nebraska;
- (b) Unlawful manufacture, cultivation, growth, production, processing, sale, distribution, storage, use or possession for any unlawful manufacture, or use of any controlled substance as that term is defined in the statutes of Nebraska;
- (c) Gambling as that term is defined in the statutes of Nebraska, or the keeping of gambling devices as that term is defined in the statutes of Nebraska;
- (d) Acts of disturbing the peace or disorderly conduct as those terms are defined elsewhere in this municipal code;
- (e) The reception, retention or disposition of stolen moveable property of another;
- (f) Clairvoyance, fortunetelling or divination. (Ord. 3409, 1995)

13-3-10. Disorderly house; prohibited; nuisance.

It shall be unlawful for the owner, lessee, renter, proprietor, or any other person or persons to keep, run or maintain a disorderly house, or to knowingly collect or permit to be collected therein persons who are engaging in any unlawful act or to knowingly make, cause or permit, or suffer to be made therein any loud or improper noise to the annoyance or disturbance of any person or neighborhood. A disorderly house is declared to be a public nuisance. A violation of this section is a Class I violation. (Ord. 3426, 1995)

13-3-11. Disorderly house; inmate; visiting; prohibited.

It shall be unlawful for any person to become or remain an inmate of any disorderly house, or to frequent or visit with knowledge of, and participation in, the illegal activities occurring therein. A violation of this section is a Class I violation. (Ord. 3426, 1995)

13-3-12. Disorderly house; abatement procedure.

(1) The procedures in this section are applicable in the event of repeated incidents of the type described in Section 13-3-9(1). For purposes of this section, “repeated incidents” means two or more of such incidents within the immediately preceding twelve-month period, which incidents are documented in writing by a law enforcement agency. Such incidents need not have resulted in a criminal conviction. The procedures in this section are also applicable to the situations described in Section 13-3-9(2).

(2) The Police Chief may give notice to the owner or occupants of the disorderly house to cease the conduct. The notice shall be in writing, shall be served personally or by certified mail, and shall contain the following:

- (a) The location of the disorderly house;
- (b) A description of the conduct which constitutes the room, house, building, structure, place or premises a disorderly house;
- (c) An order to cease the conduct;
- (d) A statement that if the conduct continues the City may take such legal action as may be necessary to restrain or suppress the conduct, specifically including the seeking of an injunction in the District Court.

(3) Within five (5) days after receipt of such notice, the owner or occupant may make a written request for a hearing before the City Council. At such hearing the City Council shall determine whether the room, house, building, structure, place or premises is a disorderly house. If the City Council determines that the room, house, building, structure, place or premises is a disorderly house, the City Council may authorize the appropriate city officers to commence the appropriate action in court to suppress the conduct if the conduct does not cease. (Ord. 3410, 1995)

13-3-13 to 13-3-14. Reserved.

(c) EXCESSIVE NOISE

13-3-15. Excessive noise; finding, declaration.

It is found and declared that:

(1) the making and creation of excessive, unnecessary or unusually loud noises within the corporate limits of the City is a condition that has existed for some time, and the extent and volume of such noises is increasing,

(2) the making, creation or maintenance of such excessive unnecessary or unusually loud noises which are prolonged, unusual or unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the inhabitants of the City, and

(3) the necessity in the public interest for the provisions and prohibitions concerning noise which are hereinafter contained is hereby declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City and its inhabitants. (Ord. 1995, 1973; Ord. 1116)

13-3-16. Same; prohibited.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the corporate limits of the City. Provided, this section shall not apply to noise that by section 13-6-18 is declared to be exempt from the provisions of this section, or to noise caused or permitted by a person to whom a permit has been granted as provided in section 13-6-19. A violation of any provision of this section, or of any provision of a permit granted as provided in section 13-6-19, is a Class II violation. (Ord. 1995, 1973; Ord. 1116)

13-3-17. Same; standards; particular noises.

The following acts, among others are declared to be loud, disturbing and unnecessary noises in violation of section 13-3-16, but such enumeration shall not be deemed to be exclusive:

(1) Animals, Birds, Miscellaneous Pets. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity;

(2) Blowers. The operation of any noise creating blower or power fan, unless such blower or fan is muffled sufficiently to prevent loud noises therefrom;

(3) Construction, Repairing of Buildings. The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 A.M. and 7:00 P.M. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit in writing from the Chief Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues, and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the Chief Building Inspector determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of 7:00 P.M. and 7:00 A.M., and if he or she shall further determine that loss or inconvenience would otherwise result to any party in interest, he or she may grant permission for such work to be done between the hours of 7:00 A.M. and 7:00 P.M., upon application being made at the time the permit for the work is awarded or during the progress of the work. If the City Council shall by resolution determine that unusual circumstances, including but not limited to the aftermath of a severe storm, exist throughout the city which circumstances necessitate a large volume of construction or repair work throughout a large portion of the city, the City Council may declare that, notwithstanding with provisions of this section, the erection, demolition, alteration, or repair of buildings may occur between the hours of 5:00 A.M. and 10:00 P.M., seven (7) days a week, during the period of time stipulated by the City Council in the resolution.

(4) Defect in Vehicles, Load. The operation of any motor vehicle, motorcycle, or other vehicle so out of repair so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise;

(5) Exhausts. The discharge into the open air of the exhaust of any motor vehicle, motorcycle, tractor, steam engine, stationary internal combustion engine or motorboat, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. The muffler of a motor vehicle or motorcycle shall be of a type that will muffle noise not less effectively than the standard muffler with which a vehicle of that type originally was equipped by the manufacturer of the vehicle, shall not be of a design that permits operation in a manner allowing

greater noise, and shall be kept in good repair. Provided, this requirement shall not apply to authorized emergency vehicles, or to motor vehicles or motorcycles designed or modified for off-highway sanctioned racing purposes, while being towed on the streets;

(6) Horns; Signaling, Other Devices. The sounding of any horn or signaling device on any motor vehicle, motorcycle, or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound and the sounding of any such device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device by which traffic is for any reason held up;

(7) Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers;

(8) Pile Drivers, Hammers, Equipment. The operation between the hours of 7:00 P.M. and 7:00 A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise;

(9) Quiet Zones. The creation of an excessive noise within any quiet zone established by the City Council which unreasonably interferes with the use of the premises or disturbs or unduly annoys occupants or users of the premises for the benefit of whom the quiet zone has been established;

(10) Shouting, Hallooming. Shouting or loud hallooming which unreasonably interferes with the comfort or report of any person in the vicinity;

(11) Sound Reproduction. The use or operation of any radio or other mechanical or electrical devices or instruments amplifying and reproducing the human voice, or any sound or noise, in any public or private place, or from any vehicle, in such manner that the peace and good order of the neighborhood are disturbed, or that persons owning, using, or occupying property in the neighborhood are disturbed or annoyed, provided that the Director of Parks and Recreation may allow the use of amplified sound at a special event under the terms as specified elsewhere in this Municipal Code. Provided further that where no special event as described in this Code is involved, the City Council may grant permission for the erection and use of temporary radio speakers, and other mechanical or electrical devices or instruments amplifying and reproducing the human voice, or any sound or noise at a fixed location, or on moving vehicles, as part of a celebration or commemoration of a patriotic or historic event, or national or state holiday, or local celebration, or at gatherings of a public nature, and at such other times as the City Council may see fit; provided, further, the City Council, in granting such permission, shall expressly designate the time such permission shall continue;

(12) Steam Whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of City authorities.

(13) Engine Brakes. The use of engine brakes on any vehicle within the City.(Ord 3658, 2000)

13-3-18. Same; exemptions.

The following noises shall be exempt from the provisions of section 13-3-16:

- (1) noises of safety signals, warning devices, and emergency pressure-relief valves;
- (2) noises caused by any Police or Fire Department vehicle or any authorized emergency

vehicle when responding to an emergency call or acting in time of emergency; or

(3) noises caused by the operation of snow removal equipment being used to remove snow. (Ord. 3490, 1996)

13-3-19. Same; special permit.

An application for a permit to cause or permit noise otherwise prohibited by this Article on the basis of undue hardship, may be made to the City Manager, or another city employee designated by the City Manager to perform this function, may grant the relief as applied for if he or she finds:

(1) that additional time is necessary for the applicant to alter or modify his activity or operation to comply with this Article, or

(2) that the activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section, and

(3) that no other reasonable alternative is available to the applicant. The City Manager may prescribe any conditions or requirements he or she deems necessary to minimize adverse effects upon the community or the surrounding neighborhood. (Ord. 1995, 1973; Ord. 1116)

13-3-20. Same; nuisance.

The making of a noise or noises in violation of section 13-6-16 is hereby declared to be a public nuisance, and may be abated as such. This remedy is in addition to and not in lieu of other remedies provided by this Article for violation of such section. (Ord. 1995, 1973; Ord. 1116)

ARTICLE 4

OFFENSES AGAINST PUBLIC SAFETY

Section

13-4-1 Firearms; discharge; prohibited; exception.

13-4-2 Switchblade knives; possession; prohibited; defined.

13-4-3 Other arms; toy weapons; discharge; prohibited.

13-4-4 Public buildings; exit doors; obstructions; lighting; violations; classification.

13-4-1. Firearms; discharge; prohibited; exception.

No person shall fire or discharge any gun, pistol, fowling piece or other firearm within the city. The provisions of this section shall not apply to: (1) a police officer or law enforcement officer in the discharge of his or her duty; (2) an animal control officer as defined in Chapter 2 in the discharge of his or her duty; and (3) any person who in places or during activities which the City Manager or the designee of the City Manager has approved under special regulations for practicing the use of a firearm, or giving exhibitions, or holding competitions in the use of firearms which are sponsored by a law enforcement organization or the Nebraska Game and Parks Commission and are monitored and supervised by such organization. A violation of any provision of this section is a Class I violation. (Ord. 3988, 2009)

13-4-2. Switchblade knives; possession; prohibited; defined.

It shall be unlawful for any person to carry on or about his person, or otherwise to have in his possession or control, any switchblade knife. A switchblade knife shall mean and include any knife having a spring or other device that will open the blade and lock it in an open position. A violation of any provision of this section is a Class I violation. (Ord. 1116)

13-4-3. Other arms; toy weapons; discharge; prohibited.

It shall be unlawful for any person or persons to discharge, or cause to be discharged, any toy pistol, toy gun, air gun or any other arm or arms, or any slingshot loaded with rock or leaden or other dangerous missiles at any time or under any circumstances within the City, except as provided in this Chapter. Provided, this section shall not apply to toy cap pistols or toy cap guns. A violation of any provision of this section is a Class I violation. (Ord. 2672, 1981)

13-4-4. Public buildings; exit doors; obstructions; lighting; violations; classification.

(1) The doors of all exits from buildings occupied as churches, school buildings, theaters for dramatic, operatic or similar performances, or as picture shows, or used for any public gatherings or meetings shall, during every performance, meeting or gathering within the building, be and remain unbarred and unlocked. No temporary seats or obstructions of any character shall, while such building is in use, be permitted to be or remain in any aisle, passageway, exit, entrance or stairway. No obstructions of any character, either movable or immovable, shall, while any such building is in use, be placed or left in any lobby or in front of any outer door or exit. No person shall be permitted to remain in any aisle or on any stairway of any such building while the building is in use. The hallways and stairways in such buildings shall be well lighted. (Ord. 1116)

(2) A violation of any provision of this section is a Class I violation. Each twenty-four (24) hours of refusal or neglect to obey any provision of this section shall be deemed a separate and distinct offense.

ARTICLE 5

OFFENSES AGAINST PUBLIC AUTHORITY

Section

13-5-1 [Police; resisting; hindering; refusal to assist; prohibited.](#)

13-5-2 [Criminal impersonation; penalty.](#)

13-5-3 [Protection of dogs used in law enforcement.](#)

13-5-4 [Violations; classification.](#)

Nebraska Statutes

For statutory provisions on refusing to aid a peace officer, see R.R.S. § 28-903; for provisions on impersonating a peace officer, see R.R.S. § 28-610.

13-5-1. Police; resisting; hindering; refusal to assist; prohibited.

It shall be unlawful for any person knowingly or willfully to hinder, obstruct or resist any police

officer or any policeman in making any arrest or performing any other duty of his office, or to refuse or neglect to assist any police officer or policemen when called upon by him in the making of any arrest, or the conveying of a prisoner to jail. (Ord. 1116)

13-5-2. Criminal impersonation; penalty.

- (a) A person commits the offense of impersonating a police officer if he or she falsely pretends to be a police officer and performs any act in that pretended capacity.
- (b) A person who commits the offense of impersonating a city employee if he or she falsely pretends to be a city employee other than a police officer and performs any act in that pretended capacity. There is no defense to the prosecution under this subsection if the office the actor pretended to hold did not in fact exist.

13-5-3. Protection of dogs used in law enforcement.

For purposes of this section, “police dog” shall mean any dog used by the Police Department or by any personnel of the Department in the performance of any of the functions or duties of the department or its personnel. It shall be unlawful for any person to:

- (1) willfully and maliciously harass, taunt, torment, tease or frighten any police dog;
- (2) interfere with or meddle with any police dog while being used in the performance of its duties; or
- (3) willfully and maliciously torture, mutilate, injure, disable, poison or kill any police dog. (Ord. 3241, 1992)

13-5-4. Violations; classification.

A violation of any provision of this Article is a Class I violation.

ARTICLE 6

OFFENSES INVOLVING ALCOHOL

(a) GENERAL PROVISIONS

Section

- 13-6-1 Alcoholic liquor; consumption; open containers; places unlawful.
- 13-6-2 Same; place open to general public; hours; restrictions.
- 13-6-3 Alcoholic liquor; employer; principal liability.
- 13-6-4 Violations; classification.
- 13-6-5 to Reserved.
- 13-6-6

(b) PERMITS FOR RECREATIONAL OR SPECIAL EVENTS IN PUBLIC PLACES

- 13-6-7 Other recreational events; organizations; permit.
- 13-6-8 Permit; application; time; notice.
- 13-6-9 Permit; application; contents.
- 13-6-10 Permit; consumption of beer; standards for issuance.

<u>13-6-11</u>	<u>Permit; contents.</u>
<u>13-6-12</u>	<u>Permit; notice.</u>
<u>13-6-13</u>	<u>Permit; denial.</u>
<u>13-6-14</u>	<u>Permittee; responsible individual; duties.</u>
<u>13-6-15</u>	<u>Permit; revocation.</u>
<u>13-6-16</u>	<u>Arts Center; special events; permit.</u>
<u>13-6-17</u>	<u>Same; application.</u>
<u>13-6-18</u>	<u>Same; permit; standards for issuance.</u>

(a) GENERAL PROVISIONS

13-6-1. Alcoholic liquor; consumption; open containers; places unlawful.

It shall be unlawful for any person:

(1) to consume or have in his or her possession any open container of alcoholic liquor in the public streets, alleys, roads, highway or parking areas, or any other property owned by or under the control of the State or any governmental subdivision, except as provided in this Article; or

(2) to consume or have in his or her possession any open container of alcoholic liquor in any place of public resort or any place open to the general public (including parking areas or lots) except as permitted by a license issued for the premises pursuant to the Nebraska Liquor Control Act,

(3) to consume or have in his or her possession any open container of alcoholic liquor inside a motor vehicle unless the alcoholic liquor is located so that no occupant of the motor vehicle shall have access to it while the vehicle is in motion, or

(4) to consume any alcoholic liquor other than beer upon a premise licensed for the sale of beer at retail only.

A container of alcoholic liquor shall be considered an “open container” if the seal of the original package is broken. (Ord. 3641, 2000)

13-6-2. Same; place open to general public; hours; restrictions.

It shall be unlawful for any person owning, operating, managing or conducting any dance hall, restaurant, cafe, club or place of public resort to permit or allow any person to consume alcoholic liquor upon the premises, except as permitted by a license previously issued to such premises pursuant to the Nebraska Liquor Control Act. (Ord. 3641, 2000)

13-6-3. Alcoholic liquor; employer; principal; liability.

The act or omission of any employee or agent who shall violate any of the provisions of sections 13-6-1 or 13-6-2 of this Article shall be punishable in the same manner as if such employer or principal had personally so acted or omitted to act. (Ord. 1116)

13-6-4. Violations; classification.

A violation of any provision of this Article, or of any provision of a permit granted pursuant to this Article, is a Class II violation.

13-6-5. Place of public resort; defined.

The term “place of public resort” as used in this article means any structure, building, house,

dwelling, room, or space whereat for a money consideration, persons may gather and be provided with food, refreshment, entertainment, amusement or recreation, regardless of whether such place is held open to the general public or is a private business or is restricted to a selected group such as members of a club or association, or persons invited to a private party. Provided however that a private party in a structure, building, house, room, or space owned or rented by a nonprofit corporation shall not be deemed to be occurring in a place of public resort. (Ord 3641, 2000)

13-6-6. Reserved.

(b) PERMITS FOR RECREATIONAL OR SPECIAL EVENTS IN PUBLIC PLACES

13-6-7. Other recreational events; organizations; permit.

The City Council may authorize the City Clerk to issue a permit to a nonprofit organization conducting or sponsoring a special event as that term is defined in Article 15 or other event in an area maintained by the City, under which there will be permitted on the premises during the event the consumption of beer or wine, or both, by adult participants in the event and their adult invited guests. Provided, however, that this section shall have no application to William Frank Park, Pioneer Park or Terry Carpenter Park. (Ord. 3739, 2002)

13-6-8. Same; permit; application; time; notice.

A person seeking issuance of a permit as provided in section 13-6-7 shall file with the City Clerk an application addressed to the City Council, on a form provided by the Clerk. The application shall be filed not less than ten (10) days before a regularly scheduled meeting of the City Council, and the City Clerk shall cause copies of the application to be delivered promptly to the Police Chief and Director of Parks and Recreation; provided, the City Council, for good cause, may accept and act upon an application not filed within such period. The words "ten (10) days" shall not include Saturdays, Sundays and holidays. (Ord. 2672, 1981)

13-6-9 Same; permits; application; contents.

The application for the permit shall set forth:

- (1) the name of the organization, the address and telephone number of the headquarters, if any, of the organization,
- (2) the name(s), address(es) and telephone number(s) of the authorized and responsible head(s) of the organization,
- (3) the name(s), address(es) and telephone number(s) of the person(s) who will be present and in charge of the event and responsible for its conduct,
- (4) the nature of the event,
- (5) the approximate number of persons who will participate in the event and of invited guests, if any,
- (6) the place of the event,
- (7) the date(s) of the event and the hours during which it will be conducted, and
- (8) any additional information which the City Clerk shall find reasonably necessary to enable the City Council to determine whether a permit should be issued. (Ord. 2672, 1981)

13-6-10. Same; permit; consumption of beer; standards for issuance.

The City Council may direct the issuance of a permit as provided in section 13-6-7 when, from a consideration of the application and from such other information as may otherwise be obtained, it finds that the presence and consumption of beer on the premises during the event is not likely to result in alcohol-related violations of law on or within the vicinity of the premises, or to require the diversion of so great a number of police officers of the City to properly police the area where the event will be conducted and areas contiguous thereto as to prevent normal police protection to the City. (Ord. 2672, 1981)

13-6-11. Same; permit; contents.

Each permit:

(1) shall state the name of the organization to which issued and the nature, date, hours and place of the event, and

(2) may include such reasonable restrictions or conditions, including but not limited to the providing of insurance, as the City Council shall determine to be in the public interest or, as the case may be, the interest of the participants. (Ord. 2672, 1981)

13-6-12. Same; permit; notice.

If the City Council shall direct issuance of a permit, the City Clerk, upon issuing the permit, shall send a copy to the Police Chief and Director of Parks and Recreation. (Ord. 2672, 1981)

13-6-13. Same; permit; denial.

If the City Council denies the application, the City Clerk shall mail or deliver to the applicant, within one day after the denial, a notice in writing of the denial, stating the reasons therefor. (Ord. 2672, 1981)

13-6-14. Same; permittee; responsible individual; duties.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and all applicable provisions of the Municipal Code. The responsible individual or other person who is present and in charge of the event shall carry the permit upon his or her person during the event. (Ord. 2672, 1981)

13-6-15. Same; permit; revocation.

The City Council may order a permit issued hereunder to be revoked by the City Clerk if it finds that the standards for issuance set forth in this Article will not, or probably will not, be met notwithstanding the exercise of reasonable diligence on the part of the Police Department. The City Clerk, within one (1) day after such order, shall issue a revocation of the permit and mail or deliver to the permittee a notice in writing of the revocation, stating the reason therefor. (Ord. 2672, 1981.)

13-6-16. Arts Center; special events; permit.

The City Council may authorize the City Clerk to issue a permit to West Nebraska Arts Center - a nonprofit organization operating an arts gallery and conducting arts-related recreational activities for the public under a lease from the City - under which there will be permitted, incidental to a special arts-related event conducted by the Arts Center on the leased premises, the consumption of complimentary wine by adults attending the event. (Ord. 2865, 1984)

13-6-17. Same; application.

The Arts Center, when seeking such a permit, shall file with the City Clerk an application therefor not less than seven (7) days prior to the meeting of the City Council at which the application is to be considered; provided, the City Council, for good cause, may waive the time for filing the application. The application shall set forth:

- (1) a description of the event and the date(s) and hours during which it will be conducted,
- (2) the name(s), address(es) and telephone number(s) of the person(s) who will be present and in charge of the event, and
- (3) any additional information which the City Clerk shall find reasonably necessary to enable the City Council to determine whether a permit should be issued. (Ord. 2865, 1984)

13-6-18. Same; permit; standards for issuance.

The City Clerk shall issue a permit as provided in section 13-6-16 if the City Council finds, from a consideration of the application and from such other information as may be received, that the event will be one for which provision is made in section 13-6-16, that the application is otherwise in sufficient form and, in addition, that complimentary consumption of wine on the premises by adults incidental to the subject event will not be inconsistent with the requirements or purposes of the lease to the premises, or with proper enforcement of the liquor control laws of the State and the City. (Ord. 2887, 1984)

ARTICLE 7

OFFENSES INVOLVING DRUGS, NARCOTICS, OR OTHER CHEMICALS

Section

<u>13-7-1</u>	<u>Controlled substance; equipment; possession.</u>
<u>13-7-2</u>	<u>Same; defined.</u>
<u>13-7-3</u>	<u>Drug; defined.</u>
<u>13-7-4</u>	<u>Marijuana; defined.</u>
<u>13-7-5</u>	<u>Narcotic drug; defined.</u>
<u>13-7-6</u>	<u>Opiate; defined.</u>
<u>13-7-7</u>	<u>Opium poppy; defined.</u>
<u>13-7-8</u>	<u>Poppy straw; defined.</u>
13-7-9	Repealed.
<u>13-7-10</u>	<u>Chemicals; inhaling; drinking; internal use; prohibited.</u>
<u>13-7-11</u>	<u>Same; aiding; counseling; furnishing; restricted.</u>
<u>13-7-12</u>	<u>Same; sale; restricted.</u>
<u>13-7-13</u>	<u>Same; physicians and surgeons.</u>
<u>13-7-14</u>	<u>Same; sale; purchase; registration.</u>
<u>13-7-15</u>	<u>Violations; classification.</u>

Nebraska Statutes

For statutory provisions on drugs and narcotics, see R.R.S. § 28-401 et seq.

13-7-1. Controlled substance; equipment; possession.

It shall be unlawful for any person to possess an opium pipe or any device, contrivance, instrument or paraphernalia designed for use or principally used for smoking a controlled substance. It also shall be unlawful for any person to possess a hypodermic needle or syringe, or any other device, contrivance, instrument or paraphernalia designed for use or used for injecting a controlled substance, except:

- (1) licensed drug manufacturers, wholesale drug jobbers, pharmacists, physicians, dentists, podiatrists, veterinarians and nurses.
- (2) hospital research, teaching and clinical laboratories personnel, funeral directors and embalmers,
- (3) persons specifically authorized by a licensed physician, dentist or podiatrist to use a hypodermic needle or syringe for medical treatment purposes, while so using the needle or syringe, and
- (4) persons using a hypodermic needle or syringe for the treatment of livestock. (Ord. 2531, 1979; Ord. 1116)

13-7-2. Same; defined.

The term "controlled substance" shall mean, for the purpose of section 13-7-1, all drugs and substances listed in the following schedules, whether listed by official name, generic, common or usual name, chemical name, brand or trade name:

Schedule I

- (a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: (1) Acetylmethadol; (2) allylprodine; (3) alphacetylmethadol; (4) alphameprodine; (5) alphamethadol; (6) benzethidine; (7) betacetylmethadol; (8) betameprodine; (9) betamethadol; (10) betaprodine; (11) clonitazene; (12) dextromoramide; (13) destrorphan; (14) diampromide; (15) diethylthiambutene; (16) dimenoxadol; (17) dimepheptanol; (18) dimethylthiambutene; (19) diozaphetyl butyrate; (20) dipipanone; (21) ethylmethylthiambutene; (22) etonitazene; (23) etoxeridine; (24) furethidine; (25) hydroxypethidine; (26) ketobemidone; (27) levomoramide; (28) levophenacymorphan; (29) morpheridine; (30) noracymethadol; (31) norlevorphanol; (32) normethadone; (33) norpipanone; (34) phenadoxone; (35) phenampromide; (36) phenomorphan; (37) phenoperidine; (38) piritramide; (39) proheptazine; (40) properidine; (41) racemoramide; and (42) trimeperidine.
- (b) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation: (1) Acetorphine; (2) acetyldihydrocodeine; (3) benzylmorphine; (4) codeine methylbromide; (5) codeine-N-Oxide; (6) cyprenorphine; (7) desomorphine; (8) dihydromorphine; (9) etorphine; (10) heroine; (11) hydromorphinol; (12) methyl-desorphine; (13) methylhydromorphine; (14) morphine methylbromide; (15) morphine methylsulfonate; (16) morphine-N-Oxide; (17) myrophine; (18) nicocodeine; (19) nicomorphine; (20) normorphine; (21) phocloidine; and (22) thebacon.
- (c) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically

excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Bufotenine; (2) diethyltryptamine; (3) dimethyltryptamine; (4) 4-methyl-2, 5-dimethoxyamphetamine; (5) ibogaine; (6) lysergic acid diethylamide; (7) marijuana; (8) mescaline; (9) peyote; (10) psilocybin; (11) psilocyn; (12) tetrahydrocannabinols; (13) 3,4-methylenedioxy amphetamine; (14) 5-methoxy-3, 4-methylenedioxy amphetamine; (15) 3,4,5-trimethoxy amphetamine; (16) N-ethyl-3-piperidyl benzilate; and (17) N-methyl-3-piperidyl benzilate.

Schedule II

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
- (2) Any salt, compound isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivision (1) of this subdivision, except that these substances shall not include the isoquinoline alkaloids of opium;
- (3) Opium poppy and poppy straw; and
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(b) Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: (1) Alphaprodine; (2) anileridine; (3) bezitramide; (4) diphenoxylate; (5) fentanyl; (6) isomethadone; (7) levomethorphan; (8) levorphanol; (9) metazocine; (10) methadone; (11) methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane; (12) moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propanecarboxylic acid; (13) pethidine; (14) pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine; (15) pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; (16) pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; (17) phenazocine; (18) piminodine; (19) racemethorphan; (20) racemorphan; and (21) dihydrocodeine.

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers and salts of isomers.

Schedule III

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system: (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers; (2) phenmetrazine and its salts; (3) any substance, except an injectable liquid, which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers; and (4)

methylphenidate.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules of this section; (2) chlorhexadol; (3) glutethimide; (4) lysergic acid; (5) lysergic acid amide; (6) methyprylon; (7) phencyclidine; (8) sulfondie-thylmethane; (9) sulfonethylmethane; (10) sulfonmethane; and (11) nalorphine.

(c) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- (1) Not more than one and eight-tenths (1.8) grams of codeine per one hundred (100) or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
- (2) Not more than one and eight-tenths (0.8) grams of codeine per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (3) Not more than three hundred (300) milligrams of dihydrocodeinone per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium;
- (4) Not more than three hundred (300) milligrams of dihydrocodeinone per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (5) Not more than one and eight-tenths (1.8) grams of dihydrocodeine per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (6) Not more than three hundred (300) milligrams of ethylmorphine per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (7) Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and
- (8) Not more than fifty (50) milligrams of morphine per one hundred (100) milliliters or per one hundred (100) grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

Schedule IV

Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse, associated with a depressant effect on the central nervous system: (1) Barbital; (2) chloral betaine; (3) chloral hydrate; (4) ethchylorvynol; (5) ethinamate; (6) methahexital; (7) meprobamate; (8) methylphenobarbital; (9) paraldehyde; (10) petrichloral; and (11) phenobarbital.

Schedule V

- (a) Any compound mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:
- (1) Not more than two hundred (200) milligrams of codeine or any of its salts per one hundred (100) milliliters or per one hundred (100) grams;
 - (2) Not more than one hundred (100) milligrams of dihydrocodeine or any of its salts per one hundred (100) milliliters or per one hundred (100) grams;
 - (3) Not more than one hundred (100) milligrams of ethylmorphine or any of its salts per one hundred (100) milliliters or per one hundred (100) grams;
 - (4) Not more than two and five-tenths (2.5) milligrams of dipheoxylate and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit; and
 - (5) Not more than one hundred (100) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams.
- (b) Any compound, mixture, or preparation, intended for use as an inhalant or inhaler which contains any quantity of mephentermine. (Ord. 1904, 1971; Ord. 1116)

13-7-3. Drug; defined.

Drug shall mean:

- (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,
- (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals,
- (3) substances, other than food, intended to affect the structure or any function of the body of man or animals, and
- (4) substances intended for use as a component of any article specified in subdivisions (1), (2), or (3) of this section; but does not include devices or their components, parts or accessories. (Ord. 1904, 1971; Ord. 1116)

13-7-4. Marijuana; defined.

Marijuana shall mean all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant or any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination; and, where the weight of marijuana is referred to in this Article it shall mean its weight at or about the time it is seized or otherwise comes into the possession of a Police Officer of the City, whether cured or uncured at that time. (Ord. 1904, 1971; Ord. 1116)

13-7-5. Narcotic drug; defined.

Narcotic drug shall mean any of the following, whether produced directly or indirectly by extraction

from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (1) opium, opium poppy and poppy straw, coca leaves, and opiates,
- (2) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves or opiates,
- (3) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (1) and (2) of this section, except that the words narcotic drug as used in this Article shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium. (Ord. 1904, 1971; Ord. 1116)

13-7-6. Opiate; defined.

Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include the dextrorotatory isomer of 3-methoxy-N methylmorphinan and its salts. It does include its racemic and levorotatory forms. (Ord. 1904, 1971; Ord. 1116)

13-7-7. Opium poppy; defined.

Opium poppy shall mean the plant of the species *Papaver somniferum* L., except the seeds thereof. (Ord. 1904, 1971; Ord. 1116)

13-7-8. Poppy straw; defined.

Poppy straw shall mean all parts, except the seeds, of the opium poppy, after mowing. (Ord. 1904, 1971; Ord. 1116)

13-7-9. Repealed. Ord. 3426, 1995.

13-7-10. Chemicals; inhaling; drinking; internal use; prohibited.

It shall be unlawful for any person to breath, inhale, drink or in any manner use internally any toluol, hexane, trichloethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichorothan, isopropanol, methyl isbutyl ketone, methyl collosolve acetate, cyclohexanone, any compound, substance or liquid (including, but not limited to, glue, paint, cement or adhesive) containing any of such chemicals, or any solvent having the property of releasing toxic vapors or fumes, for the purpose of inducing a condition of intoxication, inebriation, stupefaction, depression, giddiness, exhilaration, paralysis or irrational behavior or in any manner changing, distorting, or disturbing the auditory, visual or mental process or in any way dulling the brain or nervous system. (Ord. 1715, 1968; Ord. 1116)

13-7-11. Same; aiding; counseling; furnishing; restricted.

It shall be unlawful for any person or persons to aid or counsel, or furnish to, another to use for any purpose prohibited by section 13-7-10 any chemical or any compound, substance, or liquid containing any chemical described in section 13-7-10. (Ord. 1715, 1968; Ord. 1116)

13-7-12. Same; sale; restricted.

It shall be unlawful for any person to sell any chemical, or any compound, substance or liquid containing any chemical, described in section 13-7-10 for the purpose of use to breathe, inhale, drink or in any manner use internally. (Ord. 1715, 1968; Ord. 1116)

13-7-13. Same; physicians and surgeons.

Anything in sections 13-7-10, 13-7-11 and 13-7-12 to the contrary notwithstanding, the prohibitions and restrictions contained in such sections shall not apply to the use, the aiding or counseling in the use or the furnishing or sale for use, of chemicals, or of compounds, substances or liquids containing any of the chemicals described in section 13-7-10 whenever, in accordance with good medical practice, the use shall have been directed by and occurs in the presence of a physician or surgeon duly licensed to practice under the laws of the State of Nebraska, or the sale, furnishing or use occurs pursuant to and in accordance with a written prescription that shall have been issued in accordance with good medical practice and signed by a physician or surgeon duly licensed to practice under the laws of the State of Nebraska or any other State. (Ord. 1715, 1968; Ord. 1116)

13-7-14. Same; sale; purchase; registration.

Any person selling any glue, paint, cement or other adhesive containing any of the chemicals specified in section 13-7-10 to a purchaser under the age of eighteen years, shall, prior to making a sale of such product, require the purchaser to sign his or her name, address and age in a suitable register of a size and type to be designated by the Police Chief. Such register shall be open and available at any time during normal business hours for inspection by the Police Chief or his or her designated representative. It shall be unlawful for any person to purchase any of such products without first signing the register maintained for that purpose by the seller. (Ord. 1715, 1968; Ord. 1116)

13-7-15. Same; violations; classification.

A violation of any provision of this Article is a Class I violation.

ARTICLE 8

OFFENSES INVOLVING GAMBLING

Section

- 13-8-1 Definitions.
- 13-8-2 Gambling houses; devices; keeping; prohibited.
- 13-8-3 Gambling; prohibited.
- 13-8-4 Gambling places; frequenting; prohibited.
- 13-8-5 Violations; classification.

Nebraska Statutes

For provisions on gambling, see R.R.S. § 28-1101 et seq.

13-8-1. Definitions. As used in this Article unless the context otherwise requires:

(1) A person engages in gambling if he or she bets something of value upon the outcome of a future event, which outcome is determined by an element of chance, or upon the outcome of a game, contest, or election, or conduct or participate in any bingo, lottery by the sale of pickle cards, lottery, raffle, gift enterprise, or other scheme not authorized or 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 Section 9-701 of the Nebraska Statutes.

A person does not engage in gambling by:

- (a) entering into a lawful business transaction;
- (b) playing an amusement device or a coil-operated mechanical game which confers as to price an immediate, unrecorded right of replay not exchangeable of something of value or
- (c) conducting or participating in a prize contest.

(2) Gambling device shall mean any device, machine, paraphernalia, writing, paper, instrument, article, or equipment that is used or useable for engaging in gambling, whether that activity consists of gambling between persons, or gambling by a person involving the playing of a machine. Gambling device shall also include any mechanical gaming device, computer gaming device, a electronic gaming device, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, instant win tickets which also provide the possibility of participating in the subsequent drawing or event, or tickets or stubs redeemable for something of value, except as authorized in the furtherance of parimutuel wagering. Supplies, equipment, cards, tickets, stubs, and other items used in any bingo, lottery by the sale of pickle cards, other lottery, raffle, or gift enterprise 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 Section 9-701 of the Nebraska Statutes are not gambling devices within this definition.

13-8-2. Gambling houses; devices; keeping; prohibited.

It shall be unlawful for any person or persons within the City to set up or keep any gambling house, table, room or place whatever, or gambling device of whatever form or character, at which any game of chance shall be played for money or property or other valuable thing or article representing money, property or other valuable thing and it shall be unlawful for any person to suffer or permit any such gambling device to be set up, kept or used for the purpose of gambling in or upon any premises or tenements belonging to or under the control of such person. (Ord. 1116)

13-8-3. Gambling; prohibited.

It shall be unlawful for any person or persons within the City to engage in gambling or play any game or games of chance of any character with cards, dice or with any other device or means whatever, for money or any other valuable thing, or for anything representing money or other valuable thing. (Ord. 1116)

13-8-4. Gambling places; frequenting; prohibited.

It shall be unlawful for any person within the City to visit, frequent or loaf about any room or place wherein gambling or playing at games of chance for money or articles representing money or property is conducted or permitted, knowing the same to be such place. (Ord. 1116)

13-8-5. Violations; classification.

A violation of any provision of this Article is a Class I violation.

ARTICLE 9

OFFENSES INVOLVING PROSTITUTION

Section

<u>13-9-1</u>	<u>Prostitution; defined; prohibited.</u>
<u>13-9-2</u>	<u>Keeping a place of prostitution.</u>
<u>13-9-3</u>	<u>Same; inmate; visiting; prohibited.</u>
<u>13-9-4</u>	<u>Same; equipment; nuisance.</u>
<u>13-9-6</u>	<u>Violations; penalty.</u>

Nebraska Statutes

For provisions on prostitution, see R.R.S. § 28-801 et seq.

13-9-1. Prostitution; defined; prohibited.

It is unlawful to perform, or offer or agree to perform any act of sexual penetration as defined in the statutes of Nebraska with any person not his or her spouse in exchange for money or other thing of value.

13-9-2. 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.

13-9-3. Same; inmate; visiting; prohibited.

It shall be unlawful for any person to become or remain an inmate of a place of prostitution, or to attend at or visit any such place for the purpose of sexual intercourse. (Ord. 1116)

13-9-4. Same; equipment; nuisance.

All buildings, tents, rooms or other structures, which are erected, established, maintained, used, owned or leased for the purpose of prostitution, or in which prostitution is conducted, permitted or carried on, and the furniture, fixtures, musical instruments and contents used in carrying on such business, are hereby declared to be a nuisance. (Ord. 1116)

13-9-6. Violations; penalty.

A violation of any provision of this Article is a Class I violation.

ARTICLE 10

MISCELLANEOUS OFFENSES

Section

<u>13-10-1</u>	<u>Citation; failure to appear.</u>
<u>13-10-2</u>	<u>Aiding and abetting.</u>
<u>13-10-3</u>	<u>Public indecency.</u>
<u>13-10-3.1</u>	<u>Offenses pertaining to adult book stores.</u>
<u>13-10-4</u>	<u>Swearing; indecent language; prohibited.</u>
<u>13-10-5</u>	<u>Tobacco; sale to minors; prohibited.</u>
<u>13-10-6</u>	<u>Soliciting rides on streets, alleys; prohibited.</u>
<u>13-10-7</u>	<u>Repealed.</u>
<u>13-10-8</u>	<u>Radio or television reception; interference; prohibited; exceptions.</u>
<u>13-10-9</u>	<u>Advertisements; on power, telephone, telegraph poles, standards; prohibited; exception.</u>
<u>13-10-10</u>	<u>Hand bills; posters; leaving in vehicles; prohibited.</u>
<u>13-10-11</u>	<u>Same; on windshield; windows; prohibited.</u>
<u>13-10-12</u>	<u>Repealed.</u>
<u>13-10-13</u>	<u>Spitting; prohibited; where.</u>
<u>13-10-14</u>	<u>Minors; curfew.</u>
<u>13-10-15</u>	<u>Playing, loitering; restrictions.</u>
<u>13-10-16</u>	<u>Public dances; restrictions; definitions.</u>
<u>13-10-17</u>	<u>Swimming, boating, prohibited on city property; exceptions.</u>
<u>13-10-18</u>	<u>Violations; classification.</u>

13-10-1. Citation; failure to appear.

It shall be unlawful for any person to fail to appear in County Court on a charge of violation of any ordinance of the City as directed in a citation issued by the County Court, or by the City Attorney or one of his or her deputies, or a police officer of the City, as authorized by statute or by any provision of this Municipal Code. A violation of any provision of this section is a Class I violation. (Ord. 3502, 1996)

13-10-2. Aiding and abetting.

A person who aids, abets, procures or causes another to commit any offense may be prosecuted and punished as if the person were the principal offender. (Ord. 3293, 1993)

13-10-3. Public indecency.

(1) A person, eighteen years of age or older, commits public indecency if such person performs or procures, or assists another to perform, in a public place where the conduct may reasonably be expected to be viewed by members of the public:

- (a) An act of sexual penetration as that term is defined in the statutes of Nebraska; or
- (b) Any exposure of the genitals of the body done with intent to affront or alarm any person; or

(c) A lewd fondling or caressing of the body of another person of the same or opposite sex.

(2) Public indecency is a Class I violation.

13-10-3.1. Offenses pertaining to adult book stores.

(1) No person operating an adult book store, and no officer, director, agent or employee of such person shall

(a) allow any person under the age of twenty-one years to enter an adult book store, or

(b) display depictions of specified sexual activities or specified anatomical areas within the view of persons who are not inside the establishment.

(2) The act or omission of any employee or agent who shall violate any of the provisions this section shall be punishable in the same manner as if such employer or principal had personally so acted or omitted to act.

(3) The terms “adult book store,” “specified anatomical areas” and “specified sexual activities” shall bear the definition given to them in Chapter 25, Article 22. (Ord. 3518, 1997)

13-10-4. Swearing; indecent language; prohibited.

It shall be unlawful for any person or persons within the City to use obscene or indecent language. (Ord. 1116)

13-10-5. Tobacco; sale to minors; prohibited.

It shall hereafter be unlawful for any person, firm or corporation to sell cigars, tobacco, cigarettes or cigarette materials within the City to any person under the age of eighteen (18) years of age.

13-10-6. Soliciting rides; on streets; alleys; prohibited.

It shall be unlawful for any person to stand on the traveled portion of any street or alley for the purpose of soliciting rides from the driver of any vehicle. (Ord. 1116)

13-10-8. Radio or television reception; interference; prohibited; exceptions.

Any person, firm, association, or corporation operating or causing to be operated any oil burner, motor, sign or other electrical apparatus within the City or connected with the light and power system operating in the City, which shall cause unnecessary electrical interference with radio or television reception shall equip such apparatus with proper filtering attachments to eliminate such interference. Provided, the provisions of this section shall not apply to the use of necessary medical or health equipment or apparatus where such interference cannot be reasonably eliminated.

13-10-9. Advertisements; on power, telephone, telegraph poles, standards; prohibited; exception.

It is hereby declared unlawful for any person, firm or corporation to leave or place upon or against any telegraph, telephone or electric light pole or electric light standard within the City any advertisement of any character or description. This prohibition shall not apply to advertising for an occasional sale of used personal property to be conducted at the home of the seller, commonly called a “garage sale.” The advertising described in the immediately preceding sentence shall be removed within twenty-four hours after the conclusion of the sale. (Ord. 1116)

13-10-10. Handbills; posters; leaving in vehicles; prohibited.

It is hereby declared unlawful for any person, firm or corporation to throw, cast or put into, drop or leave in any automobile, carriage, truck or wagon not the property or under the control of such person, firm or corporation, any handbill, poster or other advertising or printed matter of any kind or description. (Ord. 1116)

13-10-11. Same; on windshield; windows; prohibited.

No person, firm or corporation shall place any poster, sign, picture or advertising material on the windshield or glass of the side or rear window of any motor vehicle not the property or under the control of such person, firm or corporation. (Ord. 1116)

13-10-12. Repealed by Ordinance 3452, 1995.

13-10-13. Spitting; prohibited; where.

It shall be unlawful for any person to spit or expectorate in any cellarway, window, door grating or entrance to any basement, excavation or area in or under or leading from any sidewalk space, or on the floor, wall or stairway in any hall of any public building in the City. (Ord. 1116)

13-10-14. Minors; curfew.

It is hereby made unlawful for any person under sixteen (16) years of age to be or remain, or for any parent, guardian or other person to suffer or permit a person under sixteen (16) years of age, who is under their legal custody, to be or remain in or upon any of the streets, alleys, vacant lots, or property of another or public places in the City at night after the hour of 10:00 P.M. unless such person is accompanied by a parent, guardian or other person having the legal custody of such minor person, or is going to or from some meeting or assemblage of lawful character, or is in the performance of an errand or duty, directed by a parent, guardian or other person having the legal custody of such minor person, or whose employment makes it necessary to be upon the streets, alleys or public places during the night time after such hour. Provided, these exceptions shall not apply when such minor person shall play or loiter unnecessarily in or upon such street, alley, vacant lot, property of another or public place, whether alone or accompanied by a parent, guardian or other person or persons whomsoever. No minor shall play or loiter in any street, alley or public place in this City at any time to the inconvenience of the ordinary traffic over and upon such streets, alleys or public places. The time when minors shall disperse from the streets may be indicated, if ordered by the City Council, by some siren, whistle or other appropriate signal. (Ord. 1116)

13-10-15. Playing, loitering; restrictions.

No person shall:

- (1) play or loiter in any street or alley in the City at any time, to the inconvenience of vehicular or pedestrian traffic over and upon any street or alley, or play or loiter in any public parking lot or other public place, except a public park or City-operated recreation area, or
- (2) loiter upon, against or adjacent to a motor vehicle parking upon a street in a residential business or commercial area. "Loiter," as used in this section, means to linger, delay, be dilatory, stand, sit, move about, loaf, or spend time idly. (Ord. 3142, 1989)

13-10-16. Public dances; restrictions; definitions.

(1) It shall be unlawful for any person having exclusive or partial control management of supervision of any place or public resort within the City to:

- (a) permit dancing of any type within such place within the hours of 1:00 a.m. and 6:00 a.m.
- (b) to conduct a public dance in a facility which is in violation of any provision of the fire prevention code adopted elsewhere in this Municipal Code.
- (c) permit the conduct of a public dance in such a fashion as to disturb the peace and quiet of any other person of ordinary sensibilities.

(2) All police officers of the City shall have free access to a place of public resort while a public dance is in progress for the purpose of inspection and to enforce compliance with all provisions of this Municipal Code and other applicable laws. If a public dance is being conducted in violation of this section, or in violation of other applicable laws, any police officer of the City is authorized to require the dance to cease and all persons present to disperse.

(3) For the purpose of this section the following terms shall have the following meaning:

- (a) A place of public resort means any structure, building house, dwelling room or space where, for money consideration, persons may gather and be provided with refreshments, entertainment, amusement and recreation, regardless of whether this place is held open to the general public or is restricted to a selected group such as members of a club or association.
- (b) A public dance includes any dance to which the general public is admitted for which an attendance charge or donation is imposed as a condition of attendance.

13-10-17. Swimming, boating, prohibited on city property; exceptions.

It shall be unlawful for any person to swim or boat on any property owned by the City, provided however, that it shall not be unlawful to swim in municipal swimming pools, and provided further that it shall not be unlawful to boat in the ponds at Riverside Park when an appropriate permit has been issued. (Ord. 3439, 1995)

This section renumbered by the City Clerk pursuant to § 14-2-9.

13-10-18. Violations; classification.

A violation of any provision of this Article which is not specifically classified otherwise is a Class II violation.

This section renumbered by the City Clerk pursuant to § 14-2-9.