

CHAPTER 18

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18-101. Advertisements -- Posting on publicly owned property.

(1) No person, except a duly authorized public officer or employee, shall erect, construct or maintain, paste, paint, print, nail, tack, tape or otherwise fasten or affix, any card, banner, handbill, poster, sign, advertisement, or notice of any kind, or cause or suffer the same to be done, on any curbstone, lamppost, pole, bench, hydrant, bridge, wall, tree, sidewalk or structure in or upon any public street, alley, or upon any other public property, except as may be required or permitted by ordinance or law; no person shall deface, mar or disfigure any bridge, fence, building or other structure belonging to city, or any tree located in any

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public property or place, by painting, cutting, scratching or breaking the same, or attaching or affixing anything thereto.

(2) Any violation of this ordinance is punishable by a fine of not less than \$50.00, and not more than \$250.00
(Code 1973, 24-1 and 4103-12/2007)

Reference: As to billboards, see Ch. 37 of this Code. As to advertising vehicles, sound trucks, etc., see 15-111.

18-102. Same -- Painting, posting, etc., on streets, sidewalks, etc.

It shall be unlawful for any person to paint, print or post or in any manner place upon any sidewalk, crossing or crosswalk or other way or passage for the use of pedestrians or upon pavement in any street or alley in the City, any placard, sign, advertisement, display bill, letter or kindred matter of any kind or description.

(Code 1973, 24-2)

18-103. Repealed. (Ord. 3660-11/98)

18-103.01. Repealed. (Ord. 3656-10/98)

18-103.02. Same -- Signs.

It shall be unlawful for any person to place or erect, either temporarily or permanently, any sign upon any street, alley, public parking lot, public right-of-way, or other real estate owned by the City of Hastings, unless such person shall have first been authorized to do so by the Hastings City Council or as provided by Section 34-309.01 as pertains to political signs.

(Ord. No. 2973-5/86 and 3207-3/91)

18-104. Same -- Defacing, removing, etc.

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 when the same is rightfully posted and put up, and during the time such sign or advertisement shall be of value.

(Code 1973, 24-4)

18-105. Aiding and abetting in violations; accessories to violations.

It shall be unlawful for any person to aid or abet another in the violation of any provision of this Code or any other City ordinance, or to be an accessory to any such violation.

(Code 1973, 24-5)

18-106. Assaults -- Prohibited; threats.

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury no matter how severe, to another person, with a dangerous instrument or otherwise, threaten another in a menacing manner or, while during confinement or in legal custody of the City police or while in the Adams County jail, unlawfully strike or wound another person.

(Code 1973, 24-6)

Reference: For similar state law, see Neb. Rev. Stat. 1943, Section 28-308 to 28-310. As to weapons generally, see ch. 21 of this Code.

18-107. Same -- Provoking.

It shall be unlawful for any person to intentionally provoke or attempt to provoke an assault upon himself or another by the uttering of a grossly vile or insulting epithet as applied to the assaulting party, or one so tempted to commit an assault.

(Code 1973, 24-7)

18-108. Bawdyhouses -- Operating, leasing, etc.

It shall be unlawful for any person to have or exercise control over the use of any place which offers

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seclusion or shelter for the practice of prostitution or to knowingly grant or permit the use of such place for the purpose of prostitution.

(Code 1973, 24-8)

Reference: For state law authorizing city to restrain houses of prostitution, see Neb. Rev. Stat. 1943, Section 16-226. For state law as to house of ill fame, see Neb. Rev. Stat. 1943, Section 28-804.

18-109. Same -- Becoming inmate in, visiting, etc.

It shall be unlawful for any person to become or remain an inmate of any house of prostitution within the City, or to attend at or visit any such house for the purpose of illicit sexual intercourse.

(Code 1973, 24-9)

18-110. Prostitution.

It shall be unlawful for any person to:

(1) Perform, offer or agree to perform any act of sexual penetration with any person not his or her spouse in exchange for money or other things of value.

(2) (a) Entice another person to become a prostitute, (b) procure or harbor therein an inmate for a house of prostitution or for any place where prostitution is practiced or allowed, (c) inveigle, entice, persuade, encourage or procure any person to come into or leave this State for the purpose of prostitution or debauchery, or (d) receive or give or agree to receive or give any money or other thing of value for procuring or attempting to procure any person to become a prostitute or leave this State for the purpose of prostitution or debauchery.

(3) Have or exercise control over the use of any place which offers seclusion or shelter for the practice of prostitution or grants or permits the use of such place for the purpose of prostitution.

(Code 1973, 24-29)

Reference: See Neb. Rev. Stat. 1943, Section 28-801 and 28-802.

18-111. Burglars' tools -- Possession.

It shall be unlawful for any person in the City to knowingly possess any explosive, tool, instrument or other article adapted, designed or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking, if that person intends to use the explosive, tool, instrument or article, or knows some person who intends ultimately to use it, in the commission of an offense involving forcible entry into premises or theft by a physical taking unless it be shown that such possession is innocent or for lawful purposes.

(Code 1973, 24-10; Ord. Nos. 1750 and 1836)

Reference: For state law as to possession of burglars' tools, see Neb. Rev. Stat. 1943, 28-508.

18-112. Disorderly conduct.

(1) DEFINITIONS. For the purpose of this Section 18-112, the following words and phrases shall have the following meanings.

(a) PUBLIC PLACE shall mean any public place to which the general public has access and a right to remain for business, entertainment or other lawful purposes, but is not limited to a place devoted solely to the uses of the public. It shall include any portion of the area of any store, shop, restaurant, tavern or other place of business which satisfies the definition of "Public Place" set forth above. It shall also include property owned by any state, county or other political subdivision, or public streets, alleys, parking lots, public and private rights of way, public grounds, areas or parks.

(b) RIOT shall mean a public disturbance involving (i) an act or acts of violence by one or more persons, which act or acts shall constitute a clear and present danger or shall result in damage or injury to the property or person of anyone, or (ii) a threat or threats of the commission of an act or acts of violence by one or more persons who are part of an assemblage of three (3) or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts would constitute a clear and present danger of or would result in damage or injury to the property or person of anyone.

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(c) INCITE A RIOT shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or the expression of beliefs, not involving advocacy or any act or acts of violence or assertion of the right to commit any such act or acts.

(2) DISORDERLY CONDUCT PROHIBITED. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, he or she willfully does any one of the following acts:

(a) Commits an act in a violent or tumultuous manner toward another whereby that other is placed in danger of physical harm to his life, limb or health;

(b) Commits an act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;

(c) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;

(d) Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic or refuses to clear such public way when ordered to do so by the City police or other lawful authority known to be such;

(e) Incites or is directly involved in attempting to incite a riot;

(f) Addresses abusive language or threats to any member of the City police department, any authorized official of the City who is engaged in the lawful performance of his or her duties, or any other person when such language or threats would cause a reasonable person to believe that the person using such language or threats desires or intends to cause acts of violence, either toward the police officer or other authorized official or the other person. Words merely causing displeasure, annoyance or resentment are not prohibited;

(g) Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance nearby, or near to, in or upon any public highway, road, street, lane, alley, park, square, common or public place, whereby the public peace is broken or disturbed or the traveling public is annoyed;

(h) Fails to obey a lawful order to disperse by a police officer, when known to be such official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity or the public health and safety is imminently threatened;

(i) Exposes his or her genital or genitals in a public place or on private premises, and under circumstances in which he or she knows or reasonably should know that the exposed genital or genitals may readily be observed from either a public place or other private premises; provided however, this prohibition shall not apply in a public or private restroom;

(j) Urinates or defecates in a public place or on private premises open to or visible to the public; provided this prohibition shall not apply to urinating or defecating in any restroom facility in a manner for which that facility was designed; and

(k) Shines or directs a laser light beam on any law enforcement officer.

(3) EXEMPTIONS. This section 18-112 shall not be construed to suppress the right to lawful assembly, picketing, public speaking or other lawful means of expressing public opinion not in contravention of other laws.

(4) PENALTIES. Any person who violates any of the provisions of this section shall be subject to a fine of not more than \$100.00.

(Code 1973, 24-11, 24-13 and Ord. Nos. 3262-5/92, 3326-5/93, 3527-3/96 and 3687-6/99)

Reference: For state law as to authority of city to suppress disorderly conduct, see Neb. Rev. Stat. 1943, Sections 16-227, 16-228.

18-113. Repealed. (Ord. No. 4163-2/2008)

18-113.01. Excessive noise.

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It shall be unlawful for any person within the City to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcasts, or musical recordings, in or upon any street, alley, or other public place in such a manner as to be audible to any person at any point or place more than seventy-five (75) feet from the source. The prohibition set forth herein shall not apply to such activity:

(1) When conducted in connection with an activity or event sponsored by a school, church, or governmental entity;

(2) When conducted in connection with an activity open to the public, such as a carnival, circus, or athletic event; and

(3) If a permit for same has been issued by the Hastings City Council, or its designee, which permit may include such conditions as the City Council, or its designee, shall deem necessary and appropriate; provided however, such conditions shall be reasonably related to preserving the public peace, and shall not infringe upon the applicant's right to free speech.

(Ord. No. 3686-6/99)

18-114. Fences -- Barbed wire prohibited.

It shall be unlawful for any person to erect, or cause to be erected or maintained any barbed wire fence within the City, except a fence used in a Commercial or Industrial zone may have not more than four (4) barbed wire strands, placed at a 45 degree angle, on top of a ninety-six (96) inch enclosure fence. See Section 34-111(3) for permit required.

(Code 1973, 24-14; Ord. No. 2573)

18-115. Fish -- Disturbing spawn, fry, etc.

It shall be unlawful for any person to injure, disturb or destroy any hatching-box or hatching-house or pond used for hatching or propagating fish or to injure or destroy or disturb any spawn, fry or fish in any of such places or in any body of water within the City; and it shall be unlawful for any person to catch, injure, or kill or destroy or in any way disturb any such spawn, fry or fish in any of such waters in the City.

(Code 1973, 24-15)

Reference: As to methods of fishing generally, see 5-118 of this Code.

18-116. Grass clippings -- Disposal in storm sewer system or on streets, etc.

It shall be unlawful for any person to place in the City's storm sewer system, whether it be open ditch or otherwise, any rubbish or grass clippings. No person shall dispose of any rubbish or grass clippings on any vacant lots and also shall not blow grass clippings onto the streets of the City.

(Code 1973, 24-21.1; Ord. No. 2441)

18-117. Theft.

It shall be unlawful for any person within the City to commit the offense of theft in any of the following manners:

(1) Theft by unlawful taking or disposition. If a person takes or exercises control over movable property of another with the intent to deprive him or her thereof or transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto.

(2) Theft by shoplifting. If a person (a) 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, conceals or takes possession of the goods or merchandise of any store or retail establishment, or (b) alters the price tag or other price marking on goods or merchandise of any store or retail establishment, transfers the goods or merchandise of any store or retail establishment from one container to another, interchanges the label or price tag from one item of merchandise with the label or price tag for another item of merchandise, or causes the cash register or sales recording device to reflect less than the retail price of the merchandise.

(3) Theft by deception. If a person obtains property of another by deception, including (a) intentionally creating or reinforcing a false impression, including false impressions as to law, value, intention or other

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state of mind, (b) prevents another from acquiring information which would effect his judgment of a transaction, (c) fails to correct a false impression which the receiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship, or (d) uses a credit card, charge plate or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer where such instrument has been stolen, forged, revoked or canceled, or where for any other reason its use by the actor is unauthorized, or where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument.

(4) Theft by extortion. If a person obtains property of another by threatening to (a) inflict bodily injury on any one or commit another criminal offense, (b) accuses anyone of a criminal offense, (c) exposes any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute, (d) takes or withholds action as an official or causes an official to take or withhold action, (e) brings about or continues a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act, or (f) testifies or provides information or withholds testimony or information with respect to another's legal claim or defense.

(5) Theft of property lost, mislaid or delivered by mistake. A person who comes into control of property of another that he knows to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient commits theft, with the intent to deprive the owner thereof, if he fails to take reasonable measures to restore the property to a person entitled to have it.

(6) Theft of services. If a person obtains services which he or she knows are available only for compensation, by deception or threat, or by false token or other means to avoid payment for the service.

(7) Theft by unauthorized use of propelled vehicle. If person intentionally exerts unauthorized control over another's propelled vehicle by operating the same without the owner's consent.

(8) Theft by receiving stolen property. If a person receives or retains or disposes of stolen moveable property of another knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained or disposed with intention to restore it to the owner.

(Code 1973, 24-23)

Reference: For state law as to theft, see Neb. Rev. Stat. 1943, Section 28-511 to 28-515.

18-118. Nuisances -- Generally.

A person commits the offense of maintaining a nuisance if the person erects, keeps up or continues and maintains property in any one or more of the following conditions:

(1) The erecting, continuing, using or maintaining of any building or premises for the exercise of any trade, employment, manufacture, business, or other purpose which, by occasioning noxious exhalations, odors, dust, smoke, gas, fumes, noise, water, spray or other substance or residue, becomes injurious and dangerous to the health, comfort or property of individuals or the public;

(2) The depositing or accumulation upon any premises of garbage, refuse, rubbish, brush, trash, offal, manure, stagnant water or any other offensive, unwholesome or unhealthy matter, substance or condition, conducive to the breeding and existence of rats, mice, flies, mosquitoes, bacteria or any other rodents or insects; provided, however, this shall not apply to garbage or refuse stored in any garbage container in good condition with a tight-fitting lid;

(3) The deposit or accumulation upon any premises of junk; provided, however, junk may be located upon any premises for which a valid special use permit granted by the Hastings City Council, for operation of an auto salvage and/or junkyard is in effect;

(4) The parking or storing of any vehicle in a manner prohibited by Hastings City Code §40-102;

(5) The maintenance, cultivation, or permitting the growth or existence upon any premises of any weeds, bind weed, thistle, rank grass or deleterious or unhealthful growth or other noxious matter extending more than six (6) inches above the ground;

(6) The obstructing or encumbering by fences, buildings, structures or otherwise of any of the public highways, streets, alleys or sidewalks of the City of Hastings;

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(7) The deposit or accumulation of building material upon any premises, unless it is stacked in a neat and orderly fashion no less than six (6) inches above ground level, and in no event shall any building material be stored or kept upon any premises outside of an enclosed structure, unless there is in effect for that premises a current Building Permit issued by the Building Inspector of the City of Hastings; and

(8) The deposit or accumulation of firewood upon any premises outside of an enclosed structure, unless it is stacked in a neat and orderly fashion no less than six (6) inches above ground level, and in no event shall any stack of firewood exceed six (6) feet in height above ground level.

(Code 1973, 24-24; Ord. No. 2885, 3527-3/96 and 4091-10/2006)

Reference: For state law as to authority of city to prevent, abate, etc., nuisances, see Neb. Rev. Stat. 1943, Section 16-240. As to unsafe buildings, see Section 28-501 of this Code.

18-119. Nuisance -- Draining or filling of lots.

All lots or pieces or parcels of ground within the City of Hastings shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon. It shall be the responsibility of the owner of said property to drain or fill said premises as necessary to prevent stagnant water. Upon the failure of an owner or occupant, or any agent, servants, representative or employee of an owner or occupant having control of any lot or lands to comply with the terms of this Section in regard to drainage or filling said premises, the Director of Environmental Health may, after five (5) days notice by personal service or certified mail upon the owner or owner's duly authorized agent and the occupant, if any, having control of any such lots or lands, or parts thereof, have such work done and the cost thereof shall be billed to the owner of said lot or land, and if those costs remain unpaid for 2 months after such work is done, said costs may be assessed against such real estate in the same manner as other special taxes for improvements are levied and assessed or may be recovered in a civil action against the owner of said lot or land. The remedy provided in this Section shall be in addition to the penalty otherwise provided in this Chapter and cumulative therewith.

(Ord. No. 2885 and 3527-3/96)

18-119.01. Nuisance - City may cause removal of junk and other litter.

Upon the failure of an owner, lessee, or occupant, or any agent, servants, representative or employee of an owner, lessee, or occupant having control of any lot or lands to litter or to cause or allow junk or other litter to be deposited or to remain thereon, the Director of Environmental Health may, after five (5) days notice by personal service or certified mail upon the owner or owner's duly authorized agent and the occupant, if any, having control of any such lots or lands, or parts thereof, abate and remove the junk or other litter therefrom, and the cost thereof shall be billed to the owner of said lot or land, and if those costs remain unpaid for 2 months after such work is done, said costs may be assessed against such real estate in the same manner as other special taxes for improvements are levied and assessed or may be recovered in a civil action against the owner of said lot or land. The remedy provided in this Section shall be in addition

to the penalty otherwise provided in this Chapter and cumulative therewith.

(Ord. No. 3527-3/96)

18-120. Nuisances -- Definitions.

(1) Garbage. The term "garbage" as used in this chapter shall mean all animal, fruit, or vegetable waste, residue which is produced by preparation, dressing, use, cooking, dealing in or storage of meats, fish, fowl, fruits, vegetables, cereals or grains for consumption.

(2) Junk. The term "junk" as used in this chapter shall mean old scrap rope, rags, batteries, paper, rubber, iron, steel, and other old or scrap material, not held for remelting purposes or reuse by an establishment having facilities for remelting or reuse, dismantled, wrecked, or inoperative automobiles, trucks, tractors, and any other inoperative machinery or equipment, or parts thereof, including motor vehicles or parts thereof kept or used primarily for racing, show, competition, or recreation, whether operative or inoperative, including vehicles commonly referred to as race cars, dragsters, demolition vehicles, dune buggies, or the like, but not including licensed motor homes in usable condition. A motor vehicle which does not have affixed thereto a valid current state motor vehicle license, and which is not located upon premises licensed by the State of Nebraska for the sale of new or used motor vehicles, will be presumed to be junked, inoperative, or abandoned within the terms of this chapter.

(3) Refuse. The term "refuse" as used in this chapter shall mean ashes and sweepings, paper, cardboard, rags, broken glass, feathers, dishes, broken or empty bottles, crockery, utensils of every kind

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and nature, pans, pasteboard boxes, lye, poisons, food containers, tin cans, grass cuttings, leaves, broken or cut tree limbs and branches, discarded automobile bodies, inoperative automobiles, parts of automobiles, machinery, parts of machinery, and any other waste matter or material which accumulates in the operation of a household, business, establishment, factory, or shop of any kind or nature.

(4) Premises. The term "premises" shall be deemed to include any platted or unplatted lot or parcel together with any sidewalks, abutting terraces, vacated alleys, and all fixtures and structures located thereon.

(5) Person. The term "person" shall be deemed to include any person, corporation, partnership, or association actually responsible for erecting, continuing, using, or maintaining a nuisance, regardless of whether said person is the owner, lessee, or manager of said building or premises.

(6) Building materials. The term "building materials" shall be deemed to include any lumber, brick, concrete blocks, windows, doors, panels, trusses, rebar, steel, metal or wood decking, shingles, tar paper, insulation, drywall, or other commonly used building components which are not affixed to any existing structure or portion thereof, and whether usable or unusable.

(7) Firewood. The term "firewood" shall be deemed to include any wood, logs, timber, branches, scrap lumber, coal, or the like, in whatever shape or form, held, kept, or stored for the purpose of burning same on or off the premises upon which such firewood is found, for either functional or aesthetic purposes.

(8) Inoperative. The term "inoperative" as it refers to motor vehicles, shall be deemed to include any motor vehicle which has any condition that would render it in violation of the Motor Vehicle Act, Neb. Rev. State. §§60-6,219 through 60-6,287, §§60-6,363 through 60-6,374 or §§60-1901 through 60-1911. (Ord. No. 2885 and 4091-10/2006)

18-121. Same -- Weeds, stagnant water, etc. -- Removal.

No owner of any lot, piece of ground or area within the City, or the agent of any such owner, shall permit on such lot, place or area or upon the sidewalk, terrace abutting the same or one half (1/2) of the adjacent alley, any weeds, bind weed, rank grass or deleterious or unhealthful growth or other noxious matter to grow, lie or be located thereon. Nor shall any owner or agent permit any such piece of ground or abutting or adjacent area to accumulate stagnant water or other nuisance thereon. (Code 1973, 24-24.4; Ord. Nos. 1804 and 2541)

18-122. Duty to remove weeds from real estate.

It shall be the duty of every owner of real estate in the City to cut and clear, such real estate, together with one half (1/2) of the streets and alleys abutting thereon all weeds and worthless vegetation whenever the same shall extend more than six (6") above the ground. Such weeds and worthless vegetation shall be cut so as not to extend more than six (6") inches above the ground. (Code 1973, 24-24.5; Ord. No. 2703)

18-123. City may cause removal of weeds or litter.

Upon the failure of such owner, lessee, or occupant, or any agent, servant, representative or employee of such owner, lessee, or occupant having control of any such lot or lands to cut and clear the same of all weeds and worthless vegetation extending more than twelve inches (12") above the ground, the Director of Environmental Health may, after five (5) days notice by personal service or certified mail upon the owner or owner's duly authorized agent and the occupant, if any, having control of any such lots or lands, or parts thereof, cut or clear such land and lots of all weeds and worthless vegetation exceeding the height of twelve inches (12') above the ground, and the cost thereof shall be billed to the owner of said lot or land, and if those costs remain unpaid for 2 months after such work is done, said costs may be assessed against such real estate in the same manner as other special taxes for improvements are levied and assessed or may be recovered in a civil action against the owner of said lot or land. The remedy provided in this Section shall be in addition to the penalty otherwise provided in this Chapter and cumulative therewith. (Code 1973, 24-24.6; Ord. Nos. 2703, 2735 and 3527-3/96)

18-124. Officers -- Obstructing, resisting, etc.; failure to assist.

It shall be unlawful for any person to intentionally prevent or attempt to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, by using or threatening to use physical force or violence against the peace officer or another or by using any other

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means which creates a substantial risk of causing physical injury to the peace officer or another, or by employing means requiring substantial force to overcome resistance to affect the arrest or, upon request by person known to him to be a police officer, to unreasonably refuse or fail to aid any such officer in apprehending any person charged with or convicted of any offense against any laws of the State of Nebraska or in securing such offender when arrested, or in conveying such offender to the county jail. (Code 1973, 24-26)

Reference: See Neb. Rev. Stat. 1943, Sections 28-903 to 28-906.

18-125. Same -- Impersonating.

It shall be unlawful for any person, other than a regular policeman, police officer, inspector, officer or employee of this City to falsely pretend to be a public servant, including a peace officer, and perform any act in that pretended capacity. (Code 1973, 24-27)

Reference: See Neb. Rev. Stat. 1943, Section 28-609 and 28-610.

18-126. Private property -- Injuring.

It shall be unlawful for any person within the City to:

- (1) Damage property of another intentionally or recklessly,
 - (2) Intentionally tamper with property of another so as to endanger person or property,
 - (3) Intentionally or maliciously cause another to suffer pecuniary loss by deception or threat.
- (Code 1973, 24-28)

Reference: See Neb. Rev. Stat. 1943, Section 28-519. As to destruction of museum property, see Section 27-519 of this Code.

18-127. Private property -- Trespassing.

It shall be unlawful for any person:

- (1) knowing that he 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, or
- (2) to enter or remain in any place as to which notice against trespass is given by actual communication to the actor or by posting in a manner described by law and reasonably and likely to come to the attention of intruders or by fencing or other enclosure manifestly designed to exclude intruders.
- (3) to drive a motor vehicle on or across private property belonging to another person as a short cut or a part of a route of travel, without having business to conduct with the occupant of said property. Failure to stop a motor vehicle while traveling over or across said private property shall constitute a rebuttable presumption of the violation of this Ordinance. (Ord. No. 2695 and 3167-3/90)

18-128. Public utility property -- Injuring.

It shall be unlawful for any person to interfere with, cut, injure, remove, break, destroy or deface any pole, wire, fixture, instrument or other property of any telegraph, telephone, electric or gas company or association used in the operation of any telegraph, telephone, electric line or gas business within the City. (Code 1973, 24-30)

Reference: As to tampering with, defacing, etc., fire alarm apparatus, see 13-223.

18-129. Radio and television reception -- Interference.

It shall be unlawful for any person to operate or cause 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 electrical interference with radio or television reception, unless said burner, motor, sign or apparatus shall be equipped with proper filtering attachments to eliminate the interference; provided, that

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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.

(Code 1973, 24-31)

18-130. Refrigerators, iceboxes, etc. -- Abandonment.

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any occupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned or unattended or discarded icebox, refrigerator or other container which has an air-tight door or lid, snap lock or other locking device which may not be released from the inside, without first removing the door or lid, snap lock or other locking device from the icebox, refrigerator or container.

(Code 1973, 24-32; Ord. No. 1737)

18-131. Solicitation -- Permit Required.

It shall be unlawful for any person or his agents, to solicit upon the public streets or in any private residences or business houses within the City, any alms, charities, gifts, donations, contributions or benefices, whether for public or private benefit, unless the person, or his agents, so soliciting, shall have first secured from the Mayor or some person designated by him, a permit in writing especially authorizing him, them or it to conduct such operations within the limits thereof.

(Code 1973, 24-33)

18-132. Stones, snowballs, etc. -- Throwing.

It shall be unlawful for any person in the City to throw any stone, snowball or any other missile upon or at any vehicle, building or other public or private property, or upon or at any person in any public or private way or place or upon enclosed or unenclosed ground.

(Code 1973, 24-34; Ord. Nos. 1750 and 1836)

18-133. Unlawful assembly.

It shall be unlawful for two (2) or more persons to assemble together within the City, upon any sidewalk or street thereof, in front of or adjacent to any store, shop or other place of business, so as to obstruct the public right-of-way along such street or sidewalk, or entrance to such place of business, or so as to obstruct or injure the carrying on of any lawful business in any of the places aforesaid.

(Code 1973, 24-35)

Reference: For state law authorizing city to prevent disorderly assemblies, see R.R.S. 1943, 16-227)

18-134. Wire tapping -- Cable television.

(1) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised community antenna and closed circuit electronic service system within the City for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the owner of said system.

(2) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cable, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

(Code 1973, 24-36; Ord. No. 2645)

18-135. Political signs; removal.

It shall be unlawful for any candidate, his agent or the owner or occupant of property to permit any political signs within the City of Hastings, Nebraska, to remain displayed for more than forty-eight (48) hours after the election, whether the same be a primary election or a general election.

(Code 1973, 24-37; Ord. No. 2677)

18-136. Filling of excavations required.

It shall be unlawful for any person or corporation who owns real estate or has an interest in real estate within the limits of the City to leave unfilled any basement or excavation as a result of removal or demolition

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of such building or house within the City for a period of time exceeding sixty (60) days.

The owner or owners of such open or exposed basement or excavation shall be notified by the City by certified mail that such basement or excavation must be filled within one hundred twenty (120) days of the mailing of said notice.

If said owner or owners shall fail to comply with the notice given them, then the City may fill said basement or excavation or hire the same to be filled and assess the cost thereof to the owner or owners of said real estate and the assessment against said real estate shall constitute a lien thereon.
(Code 1973, 24-42; Ord. No. 2741)

18-137. Curfew; imposed; exceptions.

It shall be unlawful for any person under the age of 16 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places, public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, or to ride in or upon, drive or otherwise operate, any bicycle or other vehicle, in, upon, over or through said streets or other public places or unsupervised places of the City on Sunday through Thursday of each week between the hours of 11:00 p.m. and 6:00 a.m. of the following day, and on Fridays and Saturdays between the hours of 12:00 midnight and 6:00 a.m. of the following day, unless such person is accompanied by a parent, guardian, or other adult person having the legal care and custody of such minor person, or unless such minor person is upon an emergency errand or legitimate business as directed by his or her parent, guardian or legal custodian, except as hereinafter provided.
(Ord. No. 2862)

18-138. Curfew; duty of parents.

It shall be unlawful for the parent, guardian, or other person having the care and custody of a minor person under the age of 16 years to allow or permit such minor person to do any of the things or acts prohibited by Section 18-137 of this Chapter on Sunday through Thursday of each week between the hours of 11:00 p.m. and 6:00 a.m. of the following day, and on Fridays and Saturdays between the hours of 12:00 midnight and 6:00 a.m. of the following day, unless the minor is accompanied by his or her parent, guardian or other adult person having the legal care and custody of the minor, or unless said minor is upon an emergency errand or legitimate business, as directed by his or her parent, guardian or legal custodian.
(Ord. No. 2862)

18-139. Curfew; procedure upon arrest.

Any police officer upon finding a minor in violation of Section 18-137 of this Chapter shall ascertain the name and address of such minor and warn the minor that he or she is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall notify the parents, guardian or person having custody or control of such minor. If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his or her correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be taken to the Police Department and the parent, guardian or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian or other adult person above cannot be located or fails to come and take charge of the minor, the matter will be referred to the appropriate authority for further disposition.
(Ord. No. 2862)

18-140. Tobacco; terms defined.

For the purposes of Section 18-140, through 18-146, unless the context otherwise requires:

(1) Tobacco products means any product or substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco or any finely cut, ground, powdered or leaf tobacco, that is intended to be placed in a person's mouth.

(2) Vending machine means any mechanical, electric or electronic self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.

(3) Retailer means any person, firm or corporation offering tobacco products for sale at retail to members of the public, and shall also include any private club or organization which offers tobacco products for sale to its members.

(Ord. No. 3692-7/99)

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18-141. Tobacco; sales prohibited; sign.

(1) It shall be unlawful for any retailer or any other person to sell, offer for sale, give away or deliver tobacco products to any person under the age of eighteen (18) years.

(2) Every retailer shall post signs at or near every cash register and vending machine where tobacco products are offered for sale for the purpose of informing members of the public or members of the club or organization of the restriction upon sale of tobacco products to persons under eighteen (18) years. Each such sign shall be plainly visible and state "The sale of tobacco products to persons under eighteen (18) years of age is prohibited by law". Such sign shall be on light colored paper, measuring at least eight and one-half (8 ½) inches by eleven (11) inches, and bear legible dark letters, not less than one-half (½) inch in height.

(Ord. No. 3692-7/99)

18-142. Tobacco; retailer charged with sale; defense.

In any prosecution of or any proceeding against any retailer charged with having made a sale to a person under the age of eighteen (18) years, proof of the following shall be an affirmative defense to the charge:

(1) The purchaser falsely represented in writing and supported with photographic documentary proof that he or she was of legal age to purchase tobacco; and

(2) The appearance of such purchaser was such that an ordinary and prudent person would believe that such appearance conformed to the documentary description of appearance presented by the purchaser; and

(3) The sale was made in good faith, in reliance upon the written representation, other documentary evidence, and the appearance of the purchaser, and in the belief the purchaser was of legal age to make such purchase.

(Ord. No. 3692-7/99)

18-143. Tobacco; purchase by minors prohibited.

It shall be unlawful for any person under the age of eighteen (18) years to purchase or attempt to purchase tobacco products. It shall further be unlawful for any person under the age of eighteen (18) to misrepresent his or her identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.

(Ord. No. 3692-7/99)

18-144. Tobacco; possession or use by minors prohibited; exceptions.

It shall be unlawful for any person under the age of eighteen (18) years to possess or use any tobacco product, except that a person under the age of eighteen (18) years:

(1) may possess tobacco products while under the direct supervision of the parent or natural or legal guardian of such person, and in the privacy of the home of such parent or guardian;

(2) may sell or handle any unopened container or tobacco products in the course of his or her employment by a tobacco licensee; or

(3) may possess or purchase tobacco products while under the direct supervision of a law enforcement officer for the purpose of testing or enforcing compliance with statutes, laws or ordinances governing the sale of tobacco products.

(Ord. No. 3692-7/99)

18-145. Tobacco; placement and use of vending machines.

No person, firm or corporation shall place, utilize, operate or maintain any vending machine at such a location or in such a manner as to permit the access to or use of such vending machine by persons under the age of eighteen (18) years. Any vending machine owned, used, operated or maintained by any such person, firm or corporation shall be so placed as to bring the vending machine within the direct supervision and control of such person, firm or corporation or his, her or its employees at all times, or the vending machine shall be equipped with a manual, electric or electronic locking device controlled by the owner or operator of the vending machine so as to prevent its operation by persons under the age of eighteen (18)

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years. Any vending machine owned, used, operated or maintained on any premises where access by persons under the age of eighteen (18) years is prohibited by law shall be exempt from the requirements of this section.

(Ord. No. 3692-7/99)

18-146. Tobacco; penalties.

(1) Any violation of the provisions of Sections 18-141, 143, and 144 of the Hastings City Code shall be subject to the following penalties, and where an offense is ongoing and permitted to continue, each day of commission of the offense shall constitute a separate offense:

Violation of Section 18-141 - a fine of not less than \$100 nor more than \$500.

Violation of Section 18-143 - a fine of not less than \$50 nor more than \$100.

Violation of Section 18-144 - a fine of not less than \$25 nor more than \$100.

(2) A violation of any other provision of the City Code pertaining to tobacco shall be punished by a fine of not less than \$100 nor more than \$500 and each day for which an offense is ongoing and permitted to continue shall constitute a separate offense.

(3) Any person found to have violated Sections 18-143 or 18-144 of this ordinance shall be offered, as an option in lieu of payment of the fine prescribed herein, attendance at an approved smoking cessation class. The cost, hours and duration of the class shall be established by the agency presenting the class. Upon certification by such agency evidencing attendance by such violator of the smokers cessation class, any monetary penalty prescribed herein, excluding court costs, shall be deemed satisfied.

(Ord. No. 3692-7/99)

18-147. Use of tobacco products in public areas prohibited.

(1) It shall be unlawful for any person to smoke in all City owned buildings, in or upon vehicles owned by the City of Hastings, within the perimeter fencing or public swimming pools, within the perimeter fencing of public ball fields as well as bleachers and grandstands within public parks.

(2) For purposes of this ordinance, smoking shall mean inhaling, exhaling, burning or carrying any lighted cigarette, cigar, pipe, smoking paraphernalia, tobacco, clover, weed, plant or substance.

(3) This ordinance shall not prohibit the carrying of a lighted candle or non-organic material that is being used for decoration, illumination or insect repellent.

(Ord. No. 3901-5/2003)

18-148. Prohibition regarding residency of child sex offenders.

(1) Definitions. For purposes of this ordinance:

(a) Child care facility means a facility licensed pursuant to the Child Care Licensing Act;

(b) School means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

(c) Reside means to sleep, live, or dwell at a place, which may include more than one location, and may be mobile or transitory;

(d) Residence means a place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory;

(e) Sex offender means an individual who has been convicted of a crime listed in Neb. Rev. Stat. Section 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

(f) Sexual predator means an individual who is required to register under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under Neb. Rev. Stat. Section 29-4013, and who has victimized a person eighteen years of age or younger.

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(2) It is unlawful for any sexual predator to reside within five hundred feet from a school or child care facility.

(3) For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

(4) Any person violating any provision of this Ordinance, upon conviction, is punishable by a minimum fine of two hundred fifty dollars (\$250.00) and a maximum fine of five hundred dollars (\$500.00).

(5) EXCEPTIONS. This ordinance shall not apply to a sexual predator who:

(a) Resides within a prison or correctional or treatment facility operated by the state or a political subdivision;

(b) Established a residence before July 1, 2006, and has not moved from that residence; or

(c) 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.
(Ord. No. 4093-8/2006)

Reference: The Sexual Predator Residency Restriction Act, Laws 2006, LB 1199, §27 to 29; Neb. Rev. Stat. Sec. 29-4003 and Sec. 29-4013.

18-149. Prohibition regarding child sex offender in child safety zone.

(1) Definitions: For the purpose of the Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(a) "City park" means:

(i) land owned or controlled by the City of Hastings that is designated for recreation; and,

(ii) city recreational areas, including, but not limited to, a conservation area, jogging trail, hiking trail, water park, swimming pool, soccer field, baseball field or school playground under the jurisdiction of the City of Hastings, or a school district.

(b) "Child sex offender" means:

(i) a person who pursuant to Chapter 28, Reissue Revised Statutes of Nebraska, has been convicted of, or has entered a plea of guilty or no contest for an offense under any one of the following provisions of the Nebraska Revised Statutes:

(a) Section 28-320.01 (Sexual Assault of a Child);

(b) Section 28-703 (Incest);

(c) Section 28-1463-03 (Visual Depiction of Sexually Explicit Conduct);

(d) Section 28-311 (Child Enticement);

(e) Section 28-320.02 (Sexual Assault by Use of Computer);

(f) Section 28-813.01 (Visual Depiction of Sexually Explicit Conduct Involving a Child);

(g) Section 28-1463.05 (Visual Depiction of Sexually Explicit Acts with a Child Related to Possession of the Same);

(h) Section 28-319(1)(c) (Sexual Assault of a Minor);

(i) All crimes involving a child enumerated in Section 29-4003(1)(a)(xii);

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and,

(ii) a person who has been convicted or has entered a plea of guilty or no contest for an offense under any substantially similar federal law or law of another state, or law of a foreign country, or the Uniform Code of Military Justice, or the attempt to commit a sex offense.

(c) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around any of the premises described in this Article; or

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around any of the premises described in this Article, for the purpose of committing or attempting to commit a sex offense; or

(iii) Entering or remaining in a building in or around any of the premises described in this Article, other than the offender's residence.

(d) "Public way" means: any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, common areas of schools, school bus stops, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades and similar areas that are open to the use of the public.

(e) "Child safety zone" means: all city parks and public way within three hundred (300) feet of a city park.

(f) "Residence" means: a place where the person regularly sleeps, where the person has established his or her home, where the person is habitually present, and to which when the person departs the person intends to return. A residence may include more than one location and may be mobile or transitory. Residency may be shown by, among other evidence, receipt of mail at the premises or identification of the premises as a residence on a driver's license, identification card, vehicle registration, or other document.

(g) "School" means: a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval.

(2) It shall be unlawful for a child sex offender to knowingly loiter in any city park as defined herein.

(3) It shall be unlawful for a child sex offender to knowingly loiter on a public way within three hundred (300) feet of a city park or school as defined herein.

(4) Exception for Parents. A child sex offender does not commit a violation of this section if that child sex offender is the parent or legal guardian of a child enrolled in the school building and the following circumstances apply and requirements are complied with:

(a) The parent or guardian is attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, review for placement, retention or promotion or other student issues concerning his or her student.

(b) The parent or guardian is attending a function at the school of which his or her child is an active part. Such functions include by way of illustration and not limitation, athletic contests, music concerts, theatrical performances and academic competitions.

(c) Prior to entering upon the school property during regular school hours, a parent or guardian shall contact the school principal (or his or her designee) and communicate to the principal of the parent's intended presence. Such communication shall include the purpose of the parent's presence, the anticipated time of the parent's arrival and the anticipated time of the parent's departure. The principal shall communicate to the parent any conditions to be imposed upon the parent during the parent's presence at the school, which conditions may include that the parent be accompanied at all times by an appropriate individual, approved by the principal. Upon arrival at the school the parent shall immediately check in at the school's office and shall inform the office of his or her departure.

(5) Prior to entering upon the school property at times other than regular school hours, a parent or guardian shall contact the school principal (or his or her designee) and communicate to the principal of the parent's intended presence. Such communication shall include the purpose of the parent's presence, the anticipated time of the parent's arrival and the anticipated time of the parent's departure. The principal shall

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communicate to the parent any conditions to be imposed upon the parent during the parent's presence at the school, which conditions shall include that the parent be accompanied at all times by an appropriate individual, approved by the principal. In the event the parent does not receive communication from the principal (or his or her designee) such lack of communication shall be deemed a refusal to authorize the presence of the child sex offender.

(6) Exception for Non-Parents. A child sex offender does not commit a violation of this section if that child sex offender:

(a) Is in the school or upon the school grounds for a legitimate business purpose as a representative of a commercial company supplying goods or services to the school building, provided however, that prior to entering upon the school grounds when children under the age of eighteen years are present, such individual shall contact the principal (or his or her designee) and communicate to the principal the individual's intended presence. Such communication shall include the purpose of the individual's presence, the company or business he is representing, the anticipated time of his or her arrival and the anticipated time of his or her departure. The principal shall communicate to the individual any conditions to be imposed upon the individual during his or her presence at the school, which conditions shall include that the individual be accompanied at all times by an appropriate individual, approved by the principal.

(b) Is a grandparent, aunt, uncle, first cousin, brother or sister of a child enrolled in the school and is attending a function at the school of which the child to which he or she is related is an active part, provided, however, that the related person shall at all times be accompanied by and in the presence of the parent or guardian of the enrolled child taking part in the function. Such functions include by way of illustration, and not limitation, athletic contests, music concerts, theatrical performances and academic competitions.

(7) Exception for Residence. A child sex offender does not commit a violation if that child sex offender established a residence within 500 feet of a school or day care facility prior to July 1, 2006, and has not moved from that residence, or 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.

(8) Constitutional Exception. Nothing in this section shall be construed to infringe upon the constitutional right of a child sex offender to be present in a school building that is used as a polling place for the purpose of voting or for the purpose of exercising his or her constitutional First Amendment rights.

(9) Any person violating any provision of this Ordinance, upon conviction, is punishable by a minimum fine of two hundred fifty dollars (\$250.00) and a maximum fine of five hundred dollars (\$500.00). (Ord. No. 4092-8/2006)

18-150. Violent entertainment, unsanctioned sporting events.

(1) No person shall publicize, promote, conduct, sponsor, sanction or engage in any unsanctioned sporting event or a violent form of entertainment on City property.

(2) For the purposes of this Section, an unsanctioned sporting event or a violent form of entertainment shall include, extreme fighting, ultimate fighting, full-contact fighting, "no-holds-barred" fighting, "tough man" contests, mixed martial arts or bare knuckle fighting.

(3) This Section shall not prohibit state or nationally sanctioned boxing matches, or any other contest for which there is a commission or governing body that is recognized by the City as being an authentic and valid commission or governing body.

(4) Any person adjudged guilty of this provision shall be fined as follows:

	Minimum	Maximum
First Offense	\$100.00	\$500.00
Second & Subsequent Offenses	\$250.00	\$500.00

(Ord. No. 4136-11/2007)