

CHAPTER 19

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Sec. 19-1 Advertising Matter, etc.--Posting on Telephone, etc., Poles.

It is hereby declared to be unlawful for any person either by himself or his agents, servants or employees, to post any bills, placards or advertising matter on any of the telephone, telegraph or electric light poles within the City. (Mun. Code, Sec. 7-605)

Sec. 19-2 Repealed by Ord. No. 1766

Sec. 19-3 Assault and Battery.¹

No person shall unlawfully assault or threaten another in a menacing manner, or unlawfully strike or wound another. (Mun. Code Sec. 7-101)

Sec. 19-4 Disorderly Conduct.²

No person shall publicly curse or swear, or within the hearing of others, use profane, obscene, indecent, abusive or offensive language, or shall disturb the peace of others or the good order and quiet of the City by violent, tumultous or disorderly conduct, or by menacing, threatening, traducing, assaulting, striking, wounding, challenging to fight or fighting another or others or by quarreling or rioting, shouting or making unusual or unseemly noises. (Mun. Code Sec. 7-301)

Sec. 19-5 Ditches, Drains and Sewers--Obstructing, Injuring, etc.³

No person shall injure, obstruct, break, dig into or in any manner interfere with any ditch, drain or sewer of the City, or any private ditch, drain or sewer of another without authority from the City or the owner of such ditch, drain or sewer. (Mun. Code, Sec. 7-602)

Sec. 19-6 Repealed by Ord. No. 1716.

Sec. 19-7 Repealed by Ord. No. 1766.

¹For state law as to assaults, see R.R.S. 1943, Sec. 28-308 to 28-310.

²For state law as to authority of city to suppress disorderly conduct, see R.R.S. 1943, Secs. 16-227, 16-228.

³As to sewers and sewage disposal generally, see Ch. 23 of this Code.

Sec. 19-8 Firearms--Discharge.⁴

No person shall wantonly or unnecessarily fire off or discharge any firearms of any kind or air rifles within the City. (Mun. Code Sec. 7-502; Ord. No. 1766, Sec. 2)

Sec. 19-9 Fireworks--Possession and Sale.⁵

It shall be unlawful for any person to have possession of, for sale or for any other purpose, to offer for sale, or to use, within the City, any fireworks of any kind, except, however, the display of fireworks as provided in Section 19-10, and except sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color serial shells without explosive charges for the purpose of making a noise, color wheels, toy cap pistols and toy caps each of which does not contain more than twenty-five hundredths of a gram of explosive material. Such fireworks shall be used, or sold at retail, only on those dates of each year when sale of such fireworks is permitted by the Nebraska State Fire Marshal. (Mun. Code, Sec. 7-505; Ord. No. 1638, Sec. 1)

Sec. 19-10 Fireworks--Permit for Display; Other Use Prohibited.

Any person desiring to have or to hold a fireworks display within the City shall file with the City Clerk an application in writing for a permit therefor, which application shall set forth and specifically designate the place where such fireworks display is to be held, the kind and quantity of fireworks to be used, the time thereof and the person to have supervision thereof, and the City Manager and City Clerk may thereupon issue, or refuse to issue, a permit in writing for the holding of such fireworks display, excluding all firecrackers, at the time and place and under the supervision of the person as set forth in the application, and upon the issuance of any permit may require such additional supervision as shall be deemed necessary or proper, which requirement shall be stated in the permit.

For any fireworks display permit issued pursuant to this Section, the City Manager shall have authority to designate an area for public observation of such fireworks display, and shall post reasonable notice of such observation area. During the time of such fireworks display it shall be unlawful for any other person to have in his possession, to set off or otherwise cause to discharge or burn any fireworks within such area, or to discharge or throw fireworks into such area from any adjacent land or highway. (Mun. Code, Sec. 7-505.01; Ord. No. 1986)

Sec. 19-11 Gambling.⁶

⁴For state law as to authority of city to prevent the discharge of firearms, see R.R.S. 1943, Sec. 16-227.

⁵For state law authorizing city to regulate, etc., fireworks, see R.R.S. 1943, Sec. 16-227.

⁶For state law authorizing city to restrain gambling houses, see R.R.S. 1943, Sec. 16-226. As to gaming generally, see R.R.S. 1943, Sec. 28-1101 et seq.

No person shall play at any game, whatsoever, for any sum of money or other property of value, or shall bet or wager any sum of money or other property of any value, or shall keep or exhibit for the purpose of gambling, any table, device, machine or appliance, whatsoever, or shall keep any room, shed, house or other place for the purpose of or to be used or occupied for gambling; or, being the owner of any room or building or other place, shall lease or rent the same to be used for or occupied for gambling. (Mun. Code, Sec. 7-405)

Sec. 19-12 Indecent Exposure; Lewd, etc., Acts; Obscene Books, Plays, etc.⁷

No person shall appear in any public place in a state of nudity, or make an indecent exposure of his person in the presence of others, or be guilty of any indecent act or lewd behavior, or shall exhibit, sell or offer to sell, any indecent or lewd book, picture or thing, or shall exhibit or perform any indecent, lewd or immoral play or other representation or shall in any public place write, draw, paint or make any profane, obscene, indecent or lewd word, sentence, figure or design of any kind. (Mun. Code, Sec. 7-406)

Sec. 19-13 Intoxicating Liquors--Public Consumption.⁸

It shall be unlawful for any person to consume alcoholic liquors within the City in the public streets, alleys, roads or highways or upon property owned by the state or any governmental subdivision thereof, unless authorized by the governing body having jurisdiction over such properties, or inside vehicles while upon the public streets, alleys, roads or highways, in theaters, dance halls or in any other place open to the public, and no person shall drink any alcoholic liquors other than beer upon any premises within which beer is sold at retail; provided, that nothing herein contained shall be construed to prohibit persons purchasing beer upon premises within which beer is lawfully sold for consumption on the premises, from drinking such beer on such premises. (Mun. Code, Sec. 7-402; Ord 1812)

Sec. 19-14 Junk Yards--Enclosure Required.

It shall be unlawful for any person to keep, use, maintain or operate within the City any junk yard or place for the purchase, handling or storage of old iron, hides, metals or secondhand unassembled articles, unless the same are placed within a building, or enclosed within a fence or other enclosure, of such height and kind as to effectively shield the same from view, both from adjoining streets and adjoining property.

Any such junk yard or other place used for the purposes as herein set forth, without the

⁷For state law as to indecent exposure, see R.R.S. 1943, Sec. 28-806. As to obscene literature, see R.R.S. 1943, Sec. 28-808.

⁸For state law as to consumption of liquor on public property, see R.R.S. 1943, Sec. 53-186. As to alcoholic beverages generally, see Ch. 3 of this Code.

same being enclosed is hereby declared to be a nuisance and shall be abated as such. (Mun. Code, Secs. 5-501, 5-502)

Sec. 19-15 Minors--Loitering About Railroads.

No minor, unless accompanied by parent or guardian or employed about such depot or railroad, shall loiter about any railroad depot, tracks or yards. (Mun. Code, Sec. 7-503)

Sec. 19-16 Officer--Resisting, Obstructing, etc.

No person shall resist or obstruct any officer of the City or of the state in the discharge of his duty, either by active or passive means, or by inciting another to resist or obstruct such officer in the discharge of his duty. (Mun.Code, Sec. 7-504)

Sec. 19-17 Property--Malicious Injury.

No person shall willfully or maliciously injure, destroy or deface any personal property or any building or structure owned by another person or by the City, or shall maliciously, or without lawful authority, cut, bore, fell, injure or destroy any living tree, shrub, bush, vine, plant, fruit or vegetable belonging to another person or being upon any park, street, highway or public grounds within the City. (Mun. Code, Sec. 7-202)

Sec. 19-18 Prostitution, Pimping, etc.⁹

No person shall be or engage in the vocation of prostitution, or shall solicit customers for any prostitute, or shall keep or maintain any house of prostitution or assignation or other disorderly house, or be an inmate thereof, or shall knowingly lease any house or building or premises to any notorious prostitute or to any other person for the purpose of prostitution or assignation. (Mun. Code, Sec. 7-407)

Sec. 19-19 Radio and Television Interference.

It shall be unlawful for any person knowingly or wantonly to operate or cause to be operated, any machine, device, apparatus or instrument of any kind, the operation of which shall cause reasonable preventable electrical interference with radio or television reception within the City; provided, that X-ray pictures, examinations or treatments may be made at any time if the machine or apparatus used therefor is property equipped to avoid all unnecessary or reasonable preventable interference with radio and television reception and is not negligently operated. (Mun. Code, Sec. 7-604)

⁹For state law as to prostitution, see R.R.S. 1943, Secs. 16-226, 28-801 to 28-804.01.

Sec. 19-20 Repealed by Ord. No. 1239, Sec. 1.

Sec. 19-21 Railroads--Obstructing Crossings.

No person owning, running, operating or managing any railroad within the City, his agents, servants, conductors, brakeman, engineer or other employees of such person owning, managing or controlling any locomotive, engine or train, shall stop or permit to be stopped, any railroad train, engine, locomotive or car upon any railroad track at the crossing of any travelled street intersecting any such railroad track within the City so as to obstruct the passageway across the same for a longer time than five minutes. (Mun. Code, Sec. 5-602)

Sec. 19-22 Same--Street Lights Required at Certain Crossings.

It shall be the duty of any person owning, running, operating or managing any railroad within or through the City, which railroad crosses Washington Street, Bridge Street, Madison Street and Adams Street, to erect, establish and maintain good and sufficient lights over the crossings of such streets, and to keep the lights burning in good order at all times during the nighttime thereafter, save and except when prevented by unavoidable accidents. (Mun. Code, Sec. 5-603)

Sec. 19-23 Solicitors, Peddlers, etc.--Soliciting Upon Residential Property, etc., Prohibited.

The practice of going in and upon private residences and residence property in the City by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested to do so by the owner or occupant of such private residence for the purpose of soliciting orders for the sale of goods, wares or merchandise, including books, periodicals and magazines, or for the purpose of disposing of, or peddling or hawking the same, or for the purpose of soliciting invitations to call at some later date to solicit orders for goods, or for the sale thereof, is hereby prohibited and declared to be a nuisance, and such nuisance shall be punishable as a misdemeanor.

The police officers of the City are hereby required and directed to suppress and abate any such nuisance as is described in this section. (Mun. Code, Secs. 5-901, 5-902)

Sec. 19-24 Telephone--Use to Annoy; Use of Profane Language.

It shall be unlawful for any person to, within the City, willfully annoy any other person by ringing, or causing to be rung, any telephone bell, or to call, or cause to be called, any person over any telephone for the purpose of annoying such person, or to use profane or obscene language over any telephone in the City. (Ord. No. 1150, Sec. 1)

Sec. 19-25 Unlawful Assemblages.

Any two or more persons who shall assemble together within the City, with intent to do any unlawful act, by force or violence, against the City or against any person, or to do any unlawful act against the public peace, security or the repose of any person; or being unlawfully assembled together, shall agree with each other to do, or without agreement shall do, or by words or signs or otherwise make any preparations or movement to do any unlawful act or acts, as aforesaid, shall each and severally be guilty of a misdemeanor. (Mun. Code, Sec. 7-302)

Sec. 19-26 Vagrancy.¹⁰

Any person who lives in idleness and without visible means of support, and all persons wandering about and living in taverns, market places, sheds, barns or the open air and not able to give a good account of themselves, and all persons who go about from door to door, or from place to place, or occupy public places for the purpose of begging and receiving alms, are hereby declared to be vagrants and shall be guilty of a misdemeanor. (Mun. Code, Sec. 7-408)

Sec. 19-27 Weapons--Carrying Concealed.¹¹

No person shall carry any pistol, bowie knife, dirk, metal knuckles or other deadly and dangerous weapon concealed on or about his person.

This section shall not apply to any officer authorized by law of this City or of the State or United States to preserve the peace or to make arrests, or to any person whose calling or employment, or the circumstances in which he may be placed shall be such as to justify a prudent man in carrying such weapon for the necessary defense of his person, family or property. (Mun. Code, Sec. 7-501)

Sec. 19-28 Curfew.

Section A. 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 used in the present tense include the future, words in the plural tense include the singular and words in the singular number, the plural. The word "shall" is always mandatory and not merely directory.

1. **City** is the City of Lexington, Dawson County, Nebraska, with administrative offices at

¹⁰For state law as to authority of city to prevent vagrancy, see R.R.S. 1943, Sec. 16-229.

¹¹For state law as to authority of city to regulate and prevent the carrying of concealed weapons, see R.R.S. 1943, Sec. 16-227.

406 East 7th Street.

2. **Emergency** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. **Establishment** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
4. **Juvenile** or **minor** is any unemancipated person under the age of eighteen (18) or, in equivalent phrasing often herein employed, any person seventeen (17) or less years of age.
5. **Parent** is any person having legal custody of a juvenile (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands *in loco parentis*, or (iv) as a person to whom legal custody has been given by court order.
6. **Public place** 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, 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. As a type of public place, a street is a way or place, or whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. "Street" includes that legal right of way, including but not limited to the cartway of traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street.
7. **Remain** means to stay behind, to tarry and to stay unnecessarily in a public place including the congregating of groups (or of interacting minors) totaling four (4) or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home, or to fail to leave the premises of an establishment when requested to do so by a police officer or the operator of an establishment. To implement this provision with additional precision and precaution, numerous exceptions are expressly defined in the Ordinance. More and more exceptions become available with a juvenile's increasing years and advancing maturity as appropriate in the interest of reasonable regulation.
8. **Time of night** referred to herein is based upon the prevailing standard of time, whether Central Standard Time or Central Daylight Savings Time, generally observed

at that hour by the public in the City; prima facie the time then observed in the City Administrative Offices and police station.

Section B. Curfew For Juveniles.

It shall be unlawful for any person Fifteen (15) or less years of age to be or remain in or upon a public place within the City of Lexington, Nebraska during the period beginning at 10:30 p.m. and ending at 5:00 a.m. on any day of the week, and it shall be unlawful for any person Sixteen (16) or Seventeen (17) years of age to be or remain in or upon a public place within the City of Lexington, Nebraska during the period and beginning at 12:00 p.m. and ending at 5:00 a.m. on any day of the week.

Section C. Exceptions.

The following shall constitute valid exceptions to the operation of the Ordinance:

1. When a juvenile is accompanied by a parent of such juvenile.
2. When a juvenile is accompanied by an adult authorized by a parent of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.
3. In the event of an emergency, or when the juvenile is on an errand as directed by his/her parent.
4. When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, by first delivering to the person designated by the City's Chief of Police to receive such information a written communication, signed by the juvenile and countersigned, if practicable, by a parent of the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be in a public place during hours when the Ordinance is applicable to said minor in the exercise of a First Amendment right specified in such communication.
5. When a juvenile is on the sidewalk or property where the juvenile resides.
6. When a juvenile is returning home from and within one (1) hour of the termination of a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event.
7. When the juvenile is legally employed and the juvenile is either in the course of his employment or traveling to or from such place of employment.

8. When the juvenile is, with parental consent, engaged in normal interstate travel through the City or originating or terminating in the City.
9. When the juvenile is married or has been married pursuant to state law.
10. Each of the foregoing exceptions, and their several limitations such as provisions for notification, are severable, as hereinafter provided but here reemphasized, and will be considered by Council when warranted by future experience illuminated by the views of student government associations, school personnel, citizens, associations, parents, officers and persons in authority concerned positively with juveniles as well as with juvenile delinquency.

Section D. Parental Responsibility.

It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any City public place under circumstances not constituting an exception to, or otherwise beyond the scope of, the Ordinance. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.

Section E. Penalties.

Any minor under the age of sixteen (16) violating the provisions of this Ordinance shall be dealt with in accordance with the juvenile court law of the State of Nebraska and procedure thereunder. Any other person violating this Ordinance shall be served with a citation to appear in court, and upon conviction be fined not more than \$500.00 for each offense or shall be imprisoned in jail for a period not to exceed thirty days, or both such fine and imprisonment.

Section F. Construction and Severability.

1. Severability is intended throughout and within the provisions of the Ordinance. If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the Ordinance in any and all other respects shall not be affected thereby. (Ord. 2066)

Sec. 19-29 Lexington, Nebraska Anti-Litter Ordinance

Section A. Definitions.

For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "Aircraft" is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.
- (2) "Authorized private receptacle" is a litter storage and collection receptacle as required and authorized in Section 22-7 of the Lexington City Code.
- (3) "City" is the City of Lexington, Dawson County, Nebraska.
- (4) "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (5) "Litter" is "garbage," "refuse," and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.
- (6) "Park" is a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.
- (7) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- (8) "Private Premises" is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.
- (9) "Public Place" is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.
- (10) "Refuse" is all putrescible and nonputrescible solid wastes (except body wastes),

including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

- (11) "Rubbish" is nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- (12) "Vehicle" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

Section B. Litter in Public Places; Composting and Recycling Centers.

- (a) No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in other designated areas.
- (b) City may, by posting of appropriate signs, designate areas available for public deposit of materials for composting, recycling, or as a transfer station for transport to a landfill. No person shall deposit litter other than specifically permitted by such signs, and no person shall deposit litter in any place not specifically designated by such signs.

Section C. Placement of Litter in Receptacles So as to Prevent Scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Section D. Sweeping Litter Into Gutters Prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

Section E. Merchants' Duty to Keep Sidewalks Free of Litter.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

Section F. Litter Thrown by Persons in Vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon private property.

Section G. Truck Loads Causing Litter.

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

Section H. Litter in Parks.

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

Section I. Litter in Lakes and Fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the City.

Section J. Dropping Litter From Aircraft.

No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

Section K. Litter on Occupied Private Property.

No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section L. Owner to Maintain Premises Free of Litter.

The owner or person in control of any private property shall at all times maintain the

premises free of litter. Provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

Section M. Litter on Vacant Lots.

No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not.

Section N. Penalties.

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one hundred dollars (\$100.00) or be imprisoned in the Dawson County Jail for a period not exceeding thirty (30) days or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section O. Separability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. (Ord. No. 1978)