

CHAPTER 133: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

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GENERAL PROVISIONS**§ 133.01 MAINTAINING A NUISANCE.**

(A) A person commits the offense of maintaining a nuisance if he or she erects, keeps up or continues, and maintains any nuisance to the injury of any part of the citizens of this village.

(B) The erecting, continuing, using, or maintaining of any building, structure, or other place for the exercise of any trade, employment, manufacture, or other business which, by occasioning noxious exhalations, noisome or offensive smells, becomes injurious and dangerous to the health, comfort, or property of individuals or the public; the obstructing or impeding, without legal authority, of the passage of any navigable river, harbor, or collection of water; or the corrupting or rendering unwholesome or impure of any watercourse, stream, or water; or unlawfully diverting any such watercourse from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, building, structures or otherwise of any of the public highways or streets or alleys of the village, shall be deemed nuisances.

(C) A person guilty of erecting, continuing, using, maintaining, or causing any such nuisance shall be guilty of a violation of this section and in every such case the offense shall be construed and held to have been committed in any county whose inhabitants are or have been injured or aggrieved thereby.

(D) The court, in case of conviction of such offense, shall order every such nuisance to be abated or removed.

(Neb. RS 28-1321) Penalty, see § 10.99

§ 133.02 APPLIANCES IN YARD.

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless the person first removes all doors and makes the same reasonably safe.

Penalty, see § 10.99

Statutory reference:

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

§ 133.03 PUTTING CARCASS OR FILTHY SUBSTANCE INTO WELL, SPRING, BROOK, OR STREAM.

Whoever shall put any dead animal, carcass or part thereof, or other filthy substance into any well, or into any spring, brook, or branch of running water, of which use is made for domestic purposes, shall be guilty of an offense.

(Neb. RS 28-1304) Penalty, see § 10.99

§ 133.04 PROHIBITED FENCES.

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where the fence abuts a public sidewalk, street, or alley.

Penalty, see § 10.99

Statutory reference:

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

§ 133.05 LITTERING.

(A) Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(1) The property is an area designated by law for the disposal of that type of material and the person is authorized by the proper public authority to so use the property; or

(2) The litter is placed in a receptacle or container installed on the property for that purpose.

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

LITTER. Includes all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state, but does not include wastes of primary processes of farming or manufacturing.

WASTE MATERIAL. Any material appearing in a place or in a context not associated with that material's function or origin.

(C) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of the motor vehicle or watercraft commits the offense of littering.

(Neb. RS 28-523) Penalty, see § 10.99

§ 133.06 RAISING OR PRODUCING STAGNANT WATER.

Whoever shall build, erect, continue, or keep up any dam or other obstruction in any river or stream of water in the village and thereby raise an artificial pond, or produce stagnant waters, which shall be manifestly injurious to the public health and safety shall be guilty of an offense and the court shall, moreover, order every such nuisance to be abated or removed.

(Neb. RS 28-1303) Penalty, see § 10.99

SUBSTANCE OFFENSES**§ 133.20 USE OF TOBACCO BY MINORS.**

Whoever, being a minor under the age of 18 years, shall smoke cigarettes or cigars, or use tobacco in any form whatever, in this village, shall be guilty of an offense. Any minor so charged with the violation of this section may be free from prosecution when he or she shall have furnished evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, or tobacco.

(Neb. RS 28-1418) Penalty, see § 10.99

§ 133.21 SALE OF TOBACCO TO MINORS.

Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, to any minor under 18 years of age shall be guilty of an offense.

(Neb. RS 28-1419) Penalty, see § 10.99

§ 133.22 MISREPRESENTATION BY MINOR TO OBTAIN TOBACCO.

Any person under the age of 18 years who shall obtain cigars, tobacco, cigarettes, or cigarette material from a licensee hereunder by representing that he or she is of the age of 18 years or over, shall be guilty of an offense.

(Neb. RS 28-1427) Penalty, see § 10.99

§ 133.23 MISREPRESENTATION BY MINOR TO OBTAIN ALCOHOL.

No minor, as defined by Neb. RS 53-103, shall obtain, or attempt to obtain, alcoholic liquor by misrepresentation of age, or by any other method, in any tavern or other place where alcoholic liquor is sold.

(Neb. RS 53-180.01) Penalty, see § 10.99

Statutory reference:

Penalty for manufacturing false identification intended for minors, see Neb. RS 53-180.05

§ 133.24 MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR.

(A) For purposes of this section, the definitions found in Neb. RS 53-103 shall apply, including, but not limited to, the definitions of the terms "alcoholic liquor," "consume," "minor," "sale," and "to sell."

(B) Except as otherwise provided in § 111.20, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the state or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the state or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence.

(C) It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle.

(Neb. RS 53-180.02) Penalty, see § 10.99

Statutory reference:

Minor Alcoholic Liquor Liability Act, see Neb. RS 53-401 through 53-409

§ 133.25 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.

(A) It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this village.

(B) Except as provided in § 111.03, it is unlawful for any person to consume an alcoholic beverage:

- (1) In a public parking area or on any highway in this village; or

(2) Inside a motor vehicle while in a public parking area or on any highway in this village.

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

ALCOHOLIC BEVERAGE.

(a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than 0.5% alcohol by volume; or

(c) Distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

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

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

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

(a) That contains any amount of alcoholic beverage; and

(b) (i) That is open or has a broken seal; or

(ii) The contents of which are partially removed.

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

(Neb. RS 60-6,211.08)

Penalty, see § 10.99

MOTOR VEHICLE AND HIGHWAY OFFENSES

§ 133.40 ABANDONED AUTOMOBILES.

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

ABANDONED VEHICLE.

(a) A motor vehicle is an ***ABANDONED VEHICLE***:

(i) If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than 6 hours on any public property;

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

(iii) If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(iv) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
or

(v) If left for more than 30 days in the custody of a village law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section.

(b) An all-terrain vehicle or minibike is an ***ABANDONED VEHICLE***:

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

(ii) If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(iii) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
or

(iv) If left for more than 30 days in the custody of a village law

enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section.

(c) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an **ABANDONED VEHICLE** under this division (A).

PRIVATE PROPERTY. Any privately owned property which is not included within the definition of public property.

PUBLIC PROPERTY. Any public right-of-way, street, highway, alley, or park or other state, county, or village-owned property.
(Neb. RS 60-1901)

(B) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers issued pursuant to Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the village. Any certificate of title issued under this division to the village shall be issued at no cost to the village.
(Neb. RS 60-1902)

(C) (1) Except for vehicles governed by division (B) of this section, the village shall make an inquiry concerning the last-registered owner of such vehicle as follows:

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(2) The village shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after 5 days from the date such notice was mailed; or

(b) Title will vest in the village 30 days after the date such notice was mailed.

(3) If the agency described in division (C)(1)(a) or (b) of this section also notifies the village that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(4) Title to an abandoned vehicle, if unclaimed, shall vest in the village:

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (C)(2)(a) of this section;

(b) Thirty days after the date the notice is mailed if the village will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(5) After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the village may retain for use, sell, or auction the abandoned vehicle. If the village has determined that the vehicle should be retained for use, the village shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the village intends to retain the abandoned vehicle for its use and that title will vest in the village 30 days after the publication.

(Neb. RS 60-1903)

(D) (1) If a village law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

(2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

(Neb. RS 60-1903.01)

(E) If a state agency caused an abandoned vehicle described in division (A)(a)(5) or (A)(b)(4) of this section to be removed from public property in this village, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section to be removed from public property in this village, the state agency shall deliver the vehicle to the village which shall have custody.

(Neb. RS 60-1904)

(F) Any proceeds from the sale of an abandoned vehicle in the village's custody less any expenses incurred by the village shall be held by the village without interest, for the benefit of the owner or lienholders of such vehicle for a period of 2 years. If not claimed within such 2-year period, the proceeds shall be paid into the general fund of the village. (Neb. RS 60-1905)

(G) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the village, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the village or its contractual agent or as a result of any subsequent disposition. (Neb. RS 60-1906)

(H) No person shall cause any vehicle to be an abandoned vehicle as described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section. (Neb. RS 60-1907)

(I) No person other than one authorized by the village or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. Anyone violating this division shall be guilty of an offense. (Neb. RS 60-1908)

(J) The last-registered owner of an abandoned vehicle shall be liable to the village for the costs of removal and storage of such vehicle. (Neb. RS 60-1909)

(K) Any person violating the provisions of this section shall be guilty of an offense. (Neb. RS 60-1911) Penalty, see § 10.99

Statutory reference:

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

§ 133.41 UNLICENSED OR INOPERABLE VEHICLES.

No person in charge or control of any property within the village, other than village property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on that property longer than 30 days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time, provided that this section shall not apply to a vehicle in an enclosed building, to a vehicle on the premises of a business enterprise operated in a lawful place and manner when the vehicle is necessary to the lawful operation of the business, or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the village. Any vehicle allowed to remain on property

in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of an offense.
Penalty, see § 10.99

WEAPONS OFFENSES

§ 133.60 DISCHARGE OF FIREARMS.

It shall be unlawful for any person, except an officer of the law in the discharge of official duty, to fire or discharge any gun, pistol, or other fowling piece within the village, except that nothing in this section shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Board of Trustees.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-556

§ 133.61 SLINGSHOTS, AIR GUNS, BB GUNS.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the village.

Penalty, see § 10.99

Ordinance 180

AN ORDINANCE OF THE VILLAGE OF STRATTON, NEBRASKA, AMENDING CHAPTER 133, TITLE 60 OF THE MUNICIPAL CODE OF THE VILLAGE OF STRATTON, NEBRASKA TO ALLOW FOR AUTHORIZED PERSONS TO DISCHARGE WEAPONS FOR ANIMAL CONTROL DUTIES; TO REPEAL ALL OTHER ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CHAIRPERSON AND THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF STRATTON:

Section 1. That Section 133.60 of the Stratton Municipal Code of Ordinances be amended to read as follows:

133.60 DISCHARGE OF FIREARMS

It shall be unlawful for any person, except an officer of the law in the discharge of official duty, or except a person authorized in writing by the Board of Trustees in the discharge of animal control duty, to fire or discharge any gun, pistol, or other fowling piece within the village, except that nothing in this section shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Board of Trustees. (Penalty, see 10.99; Statutory reference: Authority to regulate, see Neb. RS 17-556.)


Section 2. That Chapter 133, Title 60 of the Stratton Municipal Code and any other ordinance or section passed and approved prior to the passage, approval, and publication or posting of this Ordinance and in conflict with the provisions is herewith repealed.

Section 3. The ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND ADOPTED THIS 17TH DAY OF JUNE, 2013.



Peggy McDonald, Chairperson



Lorrinda Cheatham, Clerk

Ordinance 181

AN ORDINANCE TO REPEAL CHAPTER 133, TITLE 61 OF THE MUNICIPAL CODE OF
THE VILLAGE OF STRATTON, NEBRASKA.


BE IT ORDAINED BY THE CHAIRPERSON AND THE VILLAGE BOARD OF TRUSTEES
OF THE VILLAGE OF STRATTON:

Section 1. That Section 133.61 of the Stratton Municipal Code of Ordinances, prohibiting the discharge of a slingshot, air gun, BB gun, or the like, is repealed.

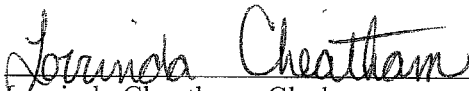
Section 2. That there is no longer a prohibition of discharging slingshots, air guns, or BB guns within the village.

Section 3. This Ordinance shall be effective upon its passage, approval, and publication or posting as required by law.

PASSED AND ADOPTED THIS 17TH DAY OF JUNE, 2013.



Peggy McDonald, Chairperson



Lorrinda Cheatham, Clerk