

TITLE 5

PUBLIC OFFENSES

Chapter 5-1: Offenses Against the Public Welfare

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CHAPTER 5-1: OFFENSES AGAINST THE PUBLIC WELFARE

5-1-1: Vagrancy

It shall be unlawful for any vagrant to remain within the city limits. A vagrant is an idle person, having no legitimate means of support, who does not desire to seek lawful employment, and who subsists through charity or by unlawful means. Whenever it shall, in a prosecution under this section, be shown that any person who is able to work:

- a. Wander about in idleness or lives in idleness without property sufficient for their support; or
- b. Leads an idle, immoral profligate life and does not work;
- c. Loafs, loiters, or idles in the City, upon a public highway, or about any public place without any regular employment and without sufficient property for their support; or
- d. Barter or trades stolen property;
- e. Unlawfully barter or sells any malt, spirituous wines or other intoxicating liquors; or
- f. Attends or operates any gambling apparatus or device; or
- g. Engages in practicing any device or trick to procure money or other things of value; or
- h. Engages in any unlawful calling; or
- i. An able-bodied married person, neglects or refuses, without lawful excuse, to provide support for their family; or
- j. Begs in any public place or from house to house, or induces children or others to do so; or
- k. Falsely represents themselves as a collector of alms for a charitable institution or purpose.

If any of the above acts are done, then it shall constitute a prima facie presumption that such person is a vagrant as defined in this section.

5-1-2: Disturbing the Peace.

No person shall use any obscene, profane or vulgar language which tends to incite the person to whom it is directed to physical violence upon any street or other public place.

5-1-3: False Emergency Alarms Prohibited.

No person shall knowingly give or make any false alarm of fire or other emergency by calling or causing to be called the Fire Department or any authorized emergency vehicle.

5-1-4: Discharge of Firearms or Air Rifles.

It shall be unlawful for any person except a public law enforcement officer in the performance of their duty to discharge or fire any air rifle, gun, sling shot, bow and arrow, or other dangerous weapons within the limits of the City unless prior approval is obtained from a law enforcement officer.

5-1-5: Firecrackers and Fireworks.

It shall be unlawful for any person or persons to use or cause to be used or burn, or ignite, or cause to be burned or ignited, any firecracker, Roman candle, torpedo, sky rocket, or powder, either alone or combined with any other substance, or to burn, ignite or use or cause to be burned, ignited or used any explosive or combustible matter or material of any kind, including all kinds of fireworks, with the exception of (a) those days authorized by state statute until 11:00 p.m., and (b) the city wide one-day 4th of July celebration until 11:00 p.m. in the following part of the City of Castlewood: on Main Street from the intersection of First and Main east to the intersection of Main and Third Street; on Second Street from intersection of Merrill and Second Street north to the intersection of Second Street and Alice Street; on Third Street at the intersection of Merrill and Third Street north to the intersection of Third Street and Alice Street.

5-1-6: Unlawful to Sell Fireworks.

It shall be unlawful for any person to deliver, give or sell any blank cartridges, firecrackers, Roman candles, torpedo, skyrockets or other explosives or fireworks or other materials from which such items may be manufactured anywhere within the limits of the City except caps for toy cap pistols.

5-1-7: Public Indecency and Nudity.

A person who knowingly or intentionally, in a public place either

- (a) engages in sexual intercourse; or
- (b) appears in a state of nudity; or
- (c) fondles the genitals of himself, herself or another person commits the offense of Public Indecency.

“Nudity” means the “showing of the human male or female genitalia, pubic area or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.”

“Public Place” includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, banquet halls, clubs, dance halls, restaurants, taverns, theaters, party rooms or

halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

The prohibition set forth hereinbefore shall not apply to:

- (a) any child under ten (10) years of age; or
- (b) any female exposing a breast in the process of breast feeding an infant under two (2) years of age.

In addition to the specific penalties provided in this ordinance, it is hereby declared that any building, portion of a building, or enclosed place regularly used for the prohibited display of public nudity is a public nuisance, subjecting the owner, proprietor or other operator thereof to any and all actions authorized by the City of Clear Lake for the abatement of public nuisances, including but not limited to the procedures set forth in Ordinances 3-3-17 and 3-3-21.

It is the intention of the City of Clear Lake that the provisions of this ordinance be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights consistent with the purposes of this ordinance. Should a court of competent jurisdiction determine that any part of this ordinance, or any application or enforcement of it is excessively restrictive of such rights or liberties, then such portion of the ordinance, or specific application of the ordinance, shall be severed from the remainder, which shall continue in full force and effect.

The violation of this ordinance either by commission of a public indecency, or by the maintenance or promotion of public indecency as a property owner, proprietor or manager of a business shall be punishable for each occasion or day that a violation occurs.

5-1-8: Dynamic Braking Prohibited

The operation of any motor vehicles with a dynamic braking device engaged is prohibited within the limits of the city. Dynamic braking device (commonly referred to as Jacob's Brake or Jake Brakes) means a device is used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of real brakes.

5-1-9: Noise Prohibited

It shall be unlawful for any person to make, continue or cause to be made or continued any loud or unusual noised so as to disturb the peace of the public within the limits of the City. The following acts are declared to be in violation of this ordinance:

- (a) any private residences within the limits of the City may not operate any musical instrument, radio, stereo, television or other device or machine for the production of reproduction of sound in such a manner as to be plainly audible at 50 feet for such device or machine during the house of any day of the week between 10:00 p.m. and 6:00 a.m. of the next day;
- (b) any vehicle within the limits of the City may not operate any musical instrument, radio,

stereo, television, or other device or machine for production or reproduction of sound in such a manner as to be plainly audible at 50 feet for such device or machine during the hours of any day of the week from 10:00 p.m. to 6:00 a.m. the next day;

The City Council may issue a Special Permit to exceed allowable sound levels within the limits of the City. It shall be required of any applicant for a Special Permit to meet with the City Council about the event. Applications for a Special Permit shall be completed and approved no later than 10 days prior to the proposed event. The Special Permit will only be active during the days and times established by the City Council.

Emergency vehicles using a warning audio device and the city's siren system, and firecrackers or fireworks permitted by Ordinance 5-1-5 are exempt from this ordinance.

5-1-10: Curfew Hours.

- (a) No minor under the age of 18 years shall be or remain in or upon the public alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, streets, vacant lots or other unsupervised public places within the city between the hours of 12:30 a.m. and 5:30 a.m. on a weekday, or between the hours of 1:30 a.m. and 5:30 a.m. on a Saturday or Sunday.

The provisions of this ordinance imposing a curfew on minors shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business authorized or directed by his parent, guardian or such other adult person having the care and custody of the minor.

- (b) It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of 18 years to knowingly permit such minor to be or remain in or upon the public alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, streets, vacant lots or other unsupervised public places within the city between the hours of 12:30 a.m. and 5:30 a.m. on any weekday or between the hours of 1:30 a.m. and 5:30 a.m. on any Saturday or Sunday except when the minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business authorized or directed by his parent, guardian or other adult person having the care and custody of the minor.

It shall be the right of any authorized officer or person to arrest and detain any minor violating the curfew and to keep the minor detained until the parent, guardian or custodian is notified. The minor may be released upon the giving of a promise by the minor and his parent, guardian or custodian that such minor, together with his parent, guardian or custodian, will appear at a stated time before the proper authority to answer to the charges.

5-1-11: Public Campground Fee

No person shall use the municipal campground without satisfying the fee charged prior to leaving the campground.

CHAPTER 5-2: PROPERTY OFFENSES

5-2-1: Injuring Signs.

No person shall change, deface, mar, remove or in anyway interfere with or obliterate either wholly or in part any card, sign or signboard erected, extended, placed or posted by the City.

5-2-2: Traffic Signs - Injuring or Placing Unauthorized Prohibited.

No person shall deface, injure, move, obstruct or interfere with any official traffic sign or signal, or street sign. Furthermore, no person shall display, maintain or place upon or in view of any street an unofficial device, sign, or signal which purports to be, or is an imitation of, or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic. Every such prohibited device, sign or signal is hereby declared to be a public nuisance, and the Deuel County Sheriff is hereby empowered to remove the same or cause the same to be removed without notice.

5-2-3: Interference with Electric Light Posts and Apparatus.

No person shall break, injure, jar or interfere with any electric light, telephone, or fire alarm system, pole or post or apparatus in any manner, or climb any telephone, electric light or fire alarm pole without being properly authorized so to do.

5-2-4: Unauthorized Connection with Gas, Water or Electrical Pipe or Wire.

No person shall, without lawful authority, connect or cause to be connected with any main service pipe, wire or other conductor of any gas, water or electrical energy, any pipe, wire or other device for the purpose of obtaining gas, water or electrical current therefrom; nor shall they with intent to defraud, connect or cause to be connected with any meter installed for the purpose of registering the amount of gas, water or electricity supplied to any customer any pipe, wire or other device or disconnect, change or in any manner so interfere with any such meter or any pipe, wire or appliance connected therewith, that such meter will not measure or register the full amount of gas, water or electricity supplied to any customer.

5-2-5: Interference with City Property.

No person shall climb on or in any manner interfere with any bridge, building, structure or water tower belonging to the City without being authorized so to do by the City, and no person shall in any manner deface or injure any such structure.

5-2-6: Destroying Property.

No person shall willfully break, damage, deface, destroy or interfere with the property of the City or of any other person.

CHAPTER 5-3 LICENSES

5-3-1: License Required

It shall be unlawful for any entity or person to engage in any temporary business, occupation or trade within the City without first obtaining a license from the city finance officer for a fee of \$10.00 unless the temporary business, occupation or trade is by a charitable, educational or religious organization which has its principal place of activity within the limits of the City. The license shall expire (10) days after the date it is issued unless it is revoked for a violation of any municipal ordinance, or federal or state statute. A “temporary” business, occupation or trade is on which will last for (10) days or less within the limits of the City.

5-3-2: Peddling and Soliciting

It shall be unlawful for any “peddler”, or “solicitor” or “transient merchant” to peddle or solicit within the limits of the City unless a permit shall have been obtained from the city finance officer for a fee of \$10.00 per day unless the items being peddled or solicited are made by either a charitable, educational or religious organization which has its principal place of activity within the limits of the City. Any authorized entity or person with a license or permit shall peddle or solicit within the limits of the City between 9:00 o’clock a.m. and 6:00 o’clock p.m.

5-3-3: Bond

A bond in such amount as is deemed necessary and reasonable may be required by the city finance officer before any license or permit is issued.

5-3-4: Display

Each authorized entity or person with a license or permit shall display the license or permit upon the request of any person, and should the person fail to display the necessary license or permit, then such shall be deemed a violation of this chapter.