

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

General Provisions

- 130.01 Damage to property; graffiti
- 130.02 Discharging firearms
- 130.03 Curfew for minors
- 130.04 Fireworks
- 130.05 Excessive Noise
- 130.06 litter and unlawful dumping

- 130.99 Penalty

GENERAL PROVISIONS

130.01 DAMAGE TO PROPERTY; GRAFFITI.

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

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, **GRAFFITI** shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discoloring of any sidewalk, street, or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that **OWNER** shall not include the city.

(B) *Conduct prohibited.*

(1) It is unlawful for any person to inscribe, draw, or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.

(2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.

(3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided, that minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) *Removal by owner.*

(1) *Owner's responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

(3) *List of contractors and cleaning materials.* The city may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the city does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the city expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising therefrom.

(D) *Removal by the city.*

(1) The city shall have the right but not the duty to remove graffiti from the exterior of private property if the owner informs the city of the presence of the graffiti and of the owner's inability to remove it. Prior to the city entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the city and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the city within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the city harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the city or its employees to remove the graffiti prior to the city commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the city or if the city is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) of this section.

(2) If the city performs the graffiti removal pursuant to division (D)(1) of this section, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

(E) *Penalty.*

(1) Upon a finding of guilty for violation of division (B) of this section, an offender shall be punished as provided in ' 130.99. Additionally, the court may, as a condition of probation, supervision, or conditional discharge, require that the party guilty of violating the provisions of division (B) of this section make full and complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the city.

(2) Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in ' 130.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

(F) *Compliance by the city.*

(1) It is the intention of the city that graffiti discovered upon city property or public property under the jurisdiction and control of the city will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.

(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or

convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.

Penalty, see ' 130.99

' 130.02 DISCHARGING FIREARMS.

(A) *Shooting upon, over or near a cemetery.* Except as provided by M.S. ' 97A.137, for wildlife management areas that are 40 acres or greater, no person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.

(B) *Hunting near a city park.* Except as provided by M.S. ' 97A.137, for wildlife management areas that are 40 acres or greater, no person shall hunt, shoot, or kill game within 2 mile of a city park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.

(C) *Discharge of firearms prohibited in certain places.* No person shall discharge a firearm on a lawn, park, playground, orchard, or other ground appurtenant to a school, church, or an inhabited dwelling, the property of another, or a charitable institution. This section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land.

(D) *Discharging firearms on highways prohibited.* No person shall discharge a firearm upon or over a public road or highway.

(E) *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(F) If any of the above provisions are found to be in conflict with M.S. ' 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.

Penalty, see ' 130.99

' 130.03 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for four primary reasons:

- (1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or ***PRIMARY CUSTODY.*** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Hours.*

(1) *Minors under the age of 16 years.* No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 10:00 p.m. and 5:00 a.m. the following day, official city time.

(2) *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work.

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor.

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew.

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion.

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence.

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent,

guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.

(J) Curfew penalties.

(1) *Minors.* Any minor found to be in violation of §130.03 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. §260B.198, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of §130.03 shall be guilty of a misdemeanor.

Penalty, see ' 130.99

' 130.04 FIREWORKS.

(A) The use, display, possession, discharge or sale of any fireworks not expressly permitted by M.S. ' 624.20, Subd. 1(b), (c), as it may be amended from time to time, is strictly prohibited.

(B) All use, display or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by M.S. ' 624.20, Subd. 1(b), (c), as it may be amended from time to time, hereinafter referred to as *permitted consumer fireworks*, is strictly prohibited in:

(1) The area on, below, above or within or in close proximity to: recreational areas, roadways, streets, highways, bicycle lanes, pedestrian paths, sidewalks, rights-of-way, lakes, rivers, waterways and all other property owned or leased by the city, the county in which the city is located, the State of Minnesota or the federal government and located in whole or in part within the city limits;

(2) Private property within the city limits that has conspicuously posted a written sign or notice that no fireworks discharge is allowed;

(3) Within 300 feet of any consumer fireworks retail sales facility or storage area that has posted a written sign or notice that no fireworks discharge is allowed; and

(4) Any property, area, or structure that, by its physical condition or the physical conditions in which it is set, would constitute a fire or personal safety hazard.

(C) All other use, display or discharge of permitted consumer fireworks must be conducted in a manner that minimizes the risk of fire or injury to other persons or property.

' 130.05 EXCESSIVE NOISE.

(A) *General Prohibition.* No person shall make or cause to be made, any distinct and loud audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment or diminishes their property values. This general prohibition is not limited by the specific restrictions of the following sections.

(B) *Horns.* Horns and audible signaling shall sound any audible signaling of danger as required by Minnesota Statutes devices. No person shall sound any audible signaling device except as a warning of danger as required by Minn. Stat. section 169.68.

(C) *Vehicle Exhaust.* Every motor vehicle shall be equipped with a muffler in good working order which blends the exhaust noise into the overall vehicle noise and is in constant operation to prevent excessive or unusual noise, and no person shall use a dynamic engine or transmission brake., muffler cutout, bypass, or similar device upon a motor vehicle on a street or highway. The exhaust system shall not emit or produce a sharp popping or crackling sound.

(D) *Radios, disc, and audio players.* No person shall use, operate, or play any radio, tape or disc player, musical instrument, phonograph, loudspeaker, sound amplifier or other audio device in such a manner as to disturb the peace, quiet, and repose of a person or persons of ordinary sensibilities, except as allowed by city license or permit for civic and/or charitable activities and events. When sound violating this section is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle's owner(s) is guilty of the violation, provided however, that if the vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.

(E) *Buildings.* No person shall engage in construction, excavation, demolition, alteration, or repair of any building between the hours of 9:00 p.m. an 6:00 a.m. any day of the week. City officials may, in case of an emergency, grant permission to repair at any time when they find repair work will not affect the health and safety of the persons in the vicinity.

(F) *Noisy parties and gatherings.*

(1) *Prohibition.* No person shall congregate at, or participate in, any party or gathering from which emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person.

(2) *Evidence.* Noise of such volume as to be clearly heard at a distance within one city block from the building or area in which the party or gathering is occurring, or in the case of an apartment building, in the adjacent hallway or apartment. A violation also occurs if any complaint from a person is verified by an officer.

(3) *Duty to disperse.* When an officer determines that a party or gathering is in violation of this section, the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No person shall knowingly remain at such a party or gathering.

(4) *Exemption.* The following are exempt from violation of this section:

(a) Activities which are duly authorized, sponsored, or licensed by the City, so long as the activity is not in violation as determined by the on-duty officer.

(b) Person(s) who have gone to a party for the sole purpose of abating the violation.

(c) Church or school bells, chimes, or carillons.

(d) Anti-theft devices, except when intentionally set off by the owner of the device for a long period of time.

(e) Machines or devices for the for the production of sound on or in authorized emergency vehicles.

(G) *Animals.* No person shall keep, or allow to be kept, any animal which is causing long continued noise which disturbs the comfort or repose of any persons in the vicinity.

' 130.06 LITTER AND UNLAWFUL DUMPING.

(A) Definitions.

(1) GARBAGE is putrescible animal and vegetable, and all other waster material, including wastes resulting from the handling, preparation, cooking and consumption of food.

(2) 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.

(3) 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.

(4) REFUSE is all putrescible and nonputrescible solid wastes (except bodily wastes) including garbage, rubbish, trash, ashes, street cleanings, dead animals, junk, abandoned automobiles, and solid market and industrial wastes.

(5) RUBBISH is nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, wood, glass, bedding, crockery, and similar materials.

(B) Prohibit dumping.

(1) No person shall deposit garbage, rubbish or refuse in a vat or commercial dumpster, except the owner or authorized agent of the premises using said vat or dumpster.

(2) No person shall throw or deposit litter on any open or vacant private property.

(3) 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 place garbage, rubbish or refuse at the curbside for collection in such 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.

(4) No other person shall throw or deposit litter on said private property without the prior permission of owner or person in control.

' 130.99 PENALTY.

(A) *Generally.* Whoever violates any provision of this chapter for which no other penalty has been established shall be punished as provided in ' 10.99.

