

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

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GENERAL PROVISIONS

SECTION 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 Section 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 Section 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 section 130.99

SECTION 130.02 DISCHARGING FIREARMS.

(A) *Shooting upon, over or near a cemetery.* 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.* 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. Section 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.

Penalty, see Section 130.99

(G) *Discharging of Firearms and Explosives.* It is unlawful for any person under the age of 18 to fire or discharge any cannon, gun, pistol or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle or similar device commonly referred to as a BB gun.

SECTION 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.* No minor 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:

(1) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day.

(2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(Ordinance 345, 6-1-15)

(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 apply.

(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.

Penalty, see section 130.99

SECTION 130.04 NOISE REGULATIONS.

(A) **Public Nuisance, Noise Prohibited.** No person shall make, continue, or cause to be made, any loud, unnecessary, or unusual noise, or any noise which, unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of others, precludes their enjoyment of property, or affects their property value.

(B) **Specific Noises Prohibited.** The following acts are declared to be nuisance noises in violation of this Section, but this listing shall not be deemed to be exclusive:

(1) **Horns, Signaling Devices, etc.:** The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street, public place, or private property within the city except as a present danger warning; The creation by means of any such horn or signaling device of any unreasonably loud or harsh sound; The sounding of any such device for an unnecessary and unreasonable period of time; The use of any signaling device except one operated by hand or electricity; The use of any horn, whistle, or other device operated by engine exhaust; The use of any signaling device when traffic is held up for any reason.

(2) Radios, Amplifiers, etc. The using, operating or permitting to be played, used or operated any radio, musical instrument, phonograph, juke box, amplifier, or other machine or device for the producing, reproducing, or amplifying of sound in such manner as to disturb the peace, quiet, or comfort of persons residing or working, or peaceably gathering in its vicinity. The operation of said machine or device shall be prima facia evidence of a violation of this Section if done in such a manner as to be plainly audible:

(A) Within any building or structure used for residential purposes; or

(B) At a distance of fifty feet from the building, structure, or vehicle in which it is located.

(3) Loud Speakers, Amplifiers for Advertising. The using, operating or permitting to be played, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) Yelling, Shouting, etc. Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity.

(5) Animals, Birds, etc. The keeping of any animal or bird, which by causing frequent or long-continued noise, shall disturb the comfort or repose of any persons in the vicinity.

(6) Whistles or Sirens. The blowing of a whistle attached to any stationary boiler or any siren whatsoever, except to give notice of the time to begin or stop work, as a warning of fire or danger, by public emergency vehicles, upon request of City authorities, or by a locomotive or train whistle.

(7) Exhausts. The discharge into the open air of the exhaust of any vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom and which complies with all applicable state laws and regulations.

(8) Defect in Vehicle or Load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise which shall disturb the comfort or repose of any persons in the vicinity.

(9) Sound Trucks for Advertising Purposes. The use of sound trucks or any other vehicle equipped with sound amplifying devices for the purposes of advertising any program, project, or meeting of any public agency, private business, religious organization, civic group, political party or charitable organization.

(10) Loading, Unloading, Opening boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(11) Construction or Repairing of Building. The erection (including excavating),

demolition, alteration, or repair of any building between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturdays, and all day Sunday, provided that the building inspector may, in cases of emergency, grant permission to repair at any time when he finds that such repair work will not affect the health and safety of the persons in the vicinity.

(12) Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court, or hospital while the same are in use which unreasonably interferes with the use thereof provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, church or court street.

(13) Hawkers, Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(14) Pile Drivers, Hammers etc. The operation between the hours of 9:00 p.m. and 7:00 a.m. of any pile driver, power shovel, pneumatic hammer, jack hammer, derrick, power or electric hoist, or other appliance the use of which is attended by loud or unusual noise.

(15) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(16) Noise in Residential Area. No person shall, between the hours of 5:00 p.m. and 7:00 a.m., congregate because of or participate in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of persons residing in any residential area. Noise between the hours of 5:00 p.m. and 7:00 a.m. of such volume as to be plainly audible at a distance of fifty feet from the residential dwelling unit wherein such party or gathering is located shall be prima facie evidence of a violation of this Section. No person shall visit or remain within any residential dwelling unit wherein such party or gathering is taking place except the owner, persons residing in that unit, or persons who have gone there for the sole purpose of abating the disturbance.

(C) The owner and tenant of any premises on which a violation of this Section occurs shall make every reasonable effort to see that the violation ceases. Violation of this Section shall be deemed the act of the person committing the act and the person in possession, control, custody, or having charge of the premises who allows or permits the violation to take place. Violation of this Section shall also be deemed the act of the non-resident landlord, provided he has received written notice from the City of the violation and has failed to make every reasonable effort to see that the violation ceases.

Penalty, see Section 130.99

SECTION 130.99 PENALTY.

(A) **Generally.** Whoever violated any provision of this chapter for which no other penalty has been established shall be punished as provided in section 10.99. Where another penalty has been established, the City may, in its sole discretion, decide instead to enforce the administrative penalties of Section 10.99.

(B) **Curfew penalties.**

(1) **Minors.** Any minor found to be in violation of Section 130.03 may be

adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. Section 260.185, as it may be amended from time to time.

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