

TITLE 13: GENERAL OFFENSES

Chapter

130.GENERAL OFFENSES

Section

- 130.01 Gambling
- 130.02 Graffiti
- 130.03 Firearms
- 130.04 Curfew

- 130.99 Penalty

CHAPTER 130: GENERAL OFFENSES

§ 130.01 GAMBLING.

(A) *Adoption of state law.* Lawful gambling shall be permitted within the city limits pursuant to M.S. §§ 349.11 et seq., as it may be amended from time to time, conditions of this section, and all other applicable ordinances of the city. The city hereby reserves all rights to regulate lawful gambling as provided in M.S. Ch. 349, as it may be amended from time to time.

(B) *Lawful gambling license required.* The State Gambling Control Board must license all organizations conducting lawful gambling in the city, unless such organization is exempt from state licensing as stated in M.S. Ch. 349, as it may be amended from time to time.

(C) *Premises.* Lawful gambling may only be permitted on premises that the organization owns or leases in the city, or in a business in which the organization has a lease area, all as permitted by statute.

(D) *Trade area.* For the purpose of this section the **TRADE AREA** shall be defined as city and each township contiguous to the city.

(E) *Contributions.*

(1) Each organization conducting lawful gambling within the city, shall contribute at least 10% of its net profits derived from lawful gambling in the city to a fund administered and regulated by the city, without cost to the fund, for the disbursement, by the city for lawful purposes, as defined by M.S. § 349.12, subd. 25, as it may be amended from time to time. The city's use of such funds shall be determined by the City Council. This shall be paid to the city quarterly. These funds shall be spent or used only within the trade area defined in division (D) above.

Eyota - General Offenses

(2) Each organization conducting lawful gambling shall expend or contribute a minimum of 90% of its net profits from the city gambling sites by the end of each premise permit year. The remaining 10% may be carried over to the subsequent permit or license year. Funds paid to the city pursuant to division (E)(1) above shall be included within the 90%. The funds must be used in the trade area, as stated in division (D) above.

(3) No organization shall receive any reimbursement from the city for any contributions made pursuant to this section.

(4) Contributions to the city cannot by law, be used for pension or retirement funds.

(5) A complete copy of Schedule C shall be sent to the Clerk-Treasurer quarterly along with payment of the 10% of its net profit as per division (A) above. "Lawful purpose" is defined in M.S. § 349.12, subd. 25, as it may be amended from time to time.

(6) No organization may contribute funds to the city for the purpose of the city giving the funds to a third party recipient designated by the organization. Such designations are unlawful and shall be disregarded.

(7) Failure by an organization to comply with this section is grounds for the City Council to revoke or disapprove the organizations lawful gambling license at time of renewal.

(8) The City Council has 30 days to review compliance with this section by any organization applying for a license.

(Ord. 89, passed 4-11-2002)

§ 130.02 GRAFFITI.*(A) Purpose.*

(1) The Council finds that there are gang members and gang "wanna be's" (herein collectively known as gang persons) occasioning the city and that these gang persons are undesirable for the city, and are detrimental to its youth. In conjunction with the proliferation of these gang persons, the Council finds that graffiti is appearing in the city. Graffiti is used to identify claimed areas of gang control or mark gang territory. The Council finds that quick removal of the graffiti may assist in preventing the entrenchment of gangs and prevent related vandalism.

(2) The Council finds that exposure to the graffiti of these gang persons adversely affects the emotional well being of city youth and creates peer pressure on city youth to join these undesirable and detrimental organizations.

(3) The Council further finds that graffiti creates a condition of blight which can result in the deterioration of property values and is inconsistent with the city's property maintenance goals and aesthetic standards. In addition, unless graffiti is quickly removed, other properties soon become the targets of graffiti.

(4) The Council hereby declares its intention to minimize and to quickly remove graffiti to limit its adverse impact on city youth and the community. Graffiti is hereby declared to be a public nuisance and a public health and safety hazard for purposes of M.S. § 429.101, subd. 1(a)(3), as it may be amended from time to time.

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

GANG. Any organization comprised of minors and/or adults who band together and claim territory within the city for themselves by the inscription of symbols on structures within the city and which has been identified by local law enforcement officials as such an organization.

GRAFFITI. Any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn, or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, curb, or other permanent structure on public or private property and which have the effect of defacing the property.

GRAFFITI MATERIALS. Paint, aerosol, or pressurized containers of paint, indelible markers, ink, dye, or any other substance capable of defacing property.

WANNA BE. Individual aspiring to be associated with a gang or exhibiting gang-like behavior, as defined above.

(C) *Unlawful conduct regarding creation of graffiti and possession of graffiti materials.*

(1) It shall be unlawful for any person to intentionally place graffiti on any exterior surface located on public or private property.

(2) It shall be unlawful for any person to possess graffiti materials for the purpose of placing graffiti on any exterior surface located on public or private property.

(D) *Limited entry upon land; interference with official duties.*

(1) Law enforcement personnel that have probable cause to believe a violation of this section exists may enter upon private property at any reasonable time for the purpose of carrying out any of the duties assigned to them under this section, however, prior to entry upon private property to verify the existence of a violation of this section, an appropriate warrant authorizing the contemplated search or

Eyota - General Offenses

other necessary actions shall be first obtained from a court of competent jurisdiction. If a property owner or person in possession of private property consents to entry by law enforcement personnel, no warrant shall be required.

(2) Upon a finding by the Council that graffiti exists or with the consent of the property owner, members of other city departments authorized by the Council may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this section.

(3) It shall be unlawful for any person to prevent, delay, or interfere with representatives of law enforcement or of other city departments while they are engaged in the performance of duties imposed by this section.

(4) A property owner may ask the city to remove graffiti from the owner's property before being ordered to do so following the abatement procedure set for in divisions (E) through (I) below. If the city agrees to remove the graffiti, the city shall have the property owner or its designated agent sign a consent form authorizing the city and its agents to enter onto the property and a release of liability form. The property owner shall be liable for any costs which the city incurs in removing the graffiti. The city may collect the costs as a special assessment pursuant to M.S. § 429.101, subd. 1(a)(3), as it may be amended from time to time, if the property owner fails to reimburse the city upon request.

(E) *Unlawful conduct; owner's responsibility.* It shall be unlawful for the owner of any property to allow graffiti to be placed on any external surface on the owner's property. The owner of any such property shall remove therefrom graffiti which has been placed there.

(F) *Law enforcement personnel to identify.*

(1) Based upon information received from the public or upon law enforcement observation, the law enforcement person shall investigate and identify graffiti. After the law enforcement person has verified the existence of graffiti, the Clerk-Treasurer shall send a letter to the property owner by certified mail informing the property owner about the graffiti and requesting the property owner to remove the graffiti within a reasonable period of time, based upon consideration of weather conditions and other relevant factors. A copy of the Clerk-Treasurer's letter shall be sent to each of the Council members. The law enforcement person shall verify whether the graffiti has in fact been removed.

(2) If the law enforcement person finds that the graffiti has not been removed within the time allotted, the Clerk-Treasurer shall schedule a public hearing. The Clerk-Treasurer shall notify the affected property owner of the hearing date, the preliminary findings that graffiti exists on the owner's property, and that the Council may after the hearing order the removal of the graffiti by either the property owner or the city's Maintenance Department, and if said Department has to remove the graffiti, the costs will be assessed against the owner's property.

(G) *Hearing.*

(1) At a hearing before the Council, the Council shall receive evidence from law enforcement and from any other persons with knowledge as to the existence of graffiti. The property owner shall be

entitled to be heard on all matters relating to graffiti and the process of removal. The existence of graffiti must be proven by the preponderance of the evidence.

(2) If the Council finds that graffiti exists, the Council shall notify the Maintenance Department and direct its removal in accordance with division (H) below. The Maintenance Department may authorize private contractors to do the graffiti removal.

(H) *Notice to owner.*

(1) In the event the Council finds that graffiti exists, the Clerk-Treasurer shall mail a written order to the owner of the subject real property, addressed to the owner's last known address.

(2) The written order shall contain the following:

(a) A description of the real estate sufficient for identification;

(b) Inform the owner that the Council has found graffiti existing on the owner's property;

(c) Request that the owner remove or obliterate the graffiti within a reasonable time as determined by the Council; and

(d) Inform the owner that unless corrective action is taken within the time allotted, the Maintenance Department may remove the graffiti and charge all costs incurred therein against the real estate as a special assessment to be collected in the same manner as taxes against real estate.

(I) *Costs to be assessed.*

(1) In the event the city removes and/or abates the graffiti, an accurate record of the costs incurred therein shall be kept by the Maintenance Department and reported to the City Clerk-Treasurer. The total costs of this abatement, including the administrative costs incurred by law enforcement investigating the graffiti, shall be considered a tax on real property. This may be assessed against the affected property and collected as provided in M.S. § 429.101, as it may be amended from time to time.

(2) In the event the person or persons responsible for the graffiti are convicted and the court orders the offender(s) to pay restitution for the cost of the clean up, and either the city or a private property owner have expended funds to clean up the graffiti, the restitution shall be directed to either the city or the private property owner as reimbursement for the cost of the clean up.

(J) *Graffiti abatement civil in nature.* A violation of divisions (E) through (I) above relating to the abatement of graffiti, shall not be treated as misdemeanors nor shall they be criminal in nature.

(Ord. 76, passed 3-20-1995) Penalty, see § 130.99

§ 130.03 FIREARMS.

(A) *Discharge of firearms prohibited.* No person shall fire, discharge, or explode any gun, pistol, BB/pellet gun, or other weapon propelled by means of explosive or gas in any part of the city.

(B) *Exception.* Nothing herein shall be constructed to prohibit any firing of a gun, pistol, BB/pellet gun, or other weapon when done by:

(1) Law enforcement or military personnel acting within the performance of their official duties;

(2) Any person lawfully defending persons or property;

(3) A person discharging a firearm and/or bow and arrow in an approved indoor shooting range, built to current Building Code standards; and

(4) A person whose firearm is using blank ammunition in conjunction with a sporting event or ceremonial occasion.

(C) *Bow and arrow.* No person shall fire or discharge any bow and arrow, cross bow, or device designed to propel projectile from a cord connecting the two ends of a bow by pulling on the cord in any part of the city. It shall not mean devices of this type commonly interpreted to be toys. (Ord. 147, passed 9-22-2016) Penalty, see § 130.99

§ 130.04 CURFEW.

(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.

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 10:30 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; or

(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. Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person found guilty of violating § 130.03 shall be guilty of a petty misdemeanor and shall be punished as provided by law.
(Ord. 75, passed 4-20-1994)

