

TITLE XIII: GENERAL OFFENSES

Chapter

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CHAPTER 130: CRIMES AND OFFENSES

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§ 130.01 UNLAWFUL DEPOSIT OF GARBAGE, LITTER OR LIKE.

It is unlawful for any person to deposit garbage, rubbish, offal, the body of a dead animal, or other litter in or upon any public street, public waters or the ice thereon, public lands, or, without the consent of the owner, private lands or water or ice thereon.

(Prior Code, § 8.01) Penalty, see § 10.99

§ 130.02 DANGEROUS WEAPONS AND ARTICLES.

(A) *Acts prohibited.* It is unlawful for any person to:

- (1) Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another;
- (2) Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another;
- (3) Manufacture or sell for any unlawful purpose any weapon known as a sling-shot or sand club;
- (4) Manufacture, transfer or possess metal knuckles or a switchblade knife opening automatically;
- (5) Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another;

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(6) Sell or have in his or her possession any device designed to silence or muffle the discharge of a firearm;

(7) Permit, as a parent or guardian, any child under 14 years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive;

(8) Furnish a minor under 18 years of age with a firearm, air gun, ammunition or explosive without the written consent of his or her parent or guardian or of the Police Department; or

(9) Possess, sell, transfer or have in possession for sale or transfer, any weapon commonly known as a throwing star, nun chuck or sharp stud. For the purposes of this division (A)(9), a **THROWING STAR** means a circular metallic device with any number of points projecting from the edge; a **NUN CHUCK** means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod; and a **SHARP STUD** means a circular piece of metal attached to a wrist band, glove, belt or other material which protrudes one-fourth inch, or more, from the material to which it is attached, and with the protruding portion pyramidal in shape, sharp or pointed.

(B) *Exception.* Nothing in division (A) above shall prohibit the possession of the articles therein mentioned if the purpose of the possession is for public exhibition by museums or collectors of art.

(C) *Discharge of firearms and explosives.* It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle or other similar device commonly referred to as a B-B gun.

(D) *Exception.* Nothing in division (C) above shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of his or her duty, or to a person in the lawful defense of his or her person or family. This section shall not apply to the discharge of firearms in a range authorized in writing by the Council.

(E) *Possession and sale of fireworks.* It is unlawful for any person to sell, possess or have in possession for the purpose of sale, except as allowed in division (D) above, any firecrackers, sky rockets or other fireworks. Per state law, ground fireworks are allowed.

(F) *Exposure of unused container.* It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges or latches.

(G) *Use of bow and arrow.* It is unlawful for any person to shoot a bow and arrow, except in the physical education program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

(Prior Code, § 8.03) (Ord. 24, passed 11-26-1993) Penalty, see § 10.99

§ 130.03 DISORDERLY CONDUCT.

It is unlawful for any person, in a public or private place, knowing or having reasonable grounds to know, that it will, or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do the following:

(A) Engage in brawling or fighting;

(B) Disturb an assembly or meeting, not unlawful in its character;

(C) Engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others;

(D) Willfully and lewdly expose his or her person or the private parts thereof, or procure another to so expose himself or herself; and any open or gross lewdness or lascivious behavior, or any act of public indecency;

(E) Whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when the waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter the waters without being garbed in a bathing suit sufficient to cover his or her person and equal to the standards generally adopted and accepted by the public;

(F) Urinate or defecate in a place other than:

(1) If on public property then in a plumbing fixture provided for that purpose;

(2) If on the private property of another then in a plumbing fixture provided for that purpose;

or

(3) If on private property not owned or controlled by another, then within a building.

(G) Cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn;

(H) Use a sound amplifier upon streets and public property without prior written permission from the city;

(I) Use a flash or spotlight in a manner so as to annoy or endanger others;

(J) Cause defacement, destruction or otherwise damage to any premises or any property located thereon;

(K) Strew, scatter, litter, throw, dispose of or deposit any refuse, garbage or rubbish unto any premises except into receptacles provided for the purpose;

(L) Enter any motor vehicle of another without the consent of the owner or operator; or

(M) Fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved, nor to any law enforcement or other government official who may be present thereon at that time as part of his or her official duty, nor shall it include the spouse, children, employee or tenant of the owner or occupier.

(Prior Code, § 8.31) Penalty, see § 10.99

§ 130.04 DANGEROUS TRESPASSES AND OTHER ACTS.

It is unlawful for any person to:

(A) Smoke in the presence of explosives, or inflammable materials, or in a building, or area, in which “No Smoking” notices have been prominently posted;

(B) Interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of a law enforcement officer or fireman present at the fire;

(C) Show a false light or signal or interfere with any light, signal or sign controlling or guiding traffic upon a highway, railway track or navigable water;

(D) Place an obstruction upon a railroad track;

(E) Expose another or his or her property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest or coerce;

(F) Trespass or permit animals under his or her control to trespass upon a railroad track;

(G) Permit domestic animals or fowls under his or her control to go upon the lands of another within the city;

(H) Interfere unlawfully with any monument, sign or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or a tract of land;

(I) Trespass upon the premises of another, and without claim of right refuse to depart therefrom on demand of the lawful possessor;

(J) Occupy or enter the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation;

(K) Enter the premises of another with intent to take or injure any fruit, fruit trees or vegetables growing thereon without the permission of the owner or occupant; or

(L) Without the permission of the owner tamper with or get into or upon a motor vehicle, or ride in or upon the motor vehicle knowing it was taken and is being driven by another without the permission of the owner.

(Prior Code, § 8.32) Penalty, see § 10.99

§ 130.05 PUBLIC NUISANCE.

It is unlawful for any person to maintain a public nuisance by his or her act or failure to perform a legal duty, and for purposes of this section, a public nuisance shall be defined as any of the following:

(A) Maintaining or permitting a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;

(B) Interfering with, obstructing or rendering dangerous for passage, any street, public right-of-way or waters used by the public;

(C) Emission of dense smoke, noxious fumes, gas, soot or cinders, in unreasonable or objectionable quantities; or

(D) Any other act or omission declared by law to be a public nuisance.

(Prior Code, § 8.33) Penalty, see § 10.99

§ 130.06 PERMITTING A PUBLIC NUISANCE.

It is unlawful for any person to permit real property under his or her control to be used to maintain a public nuisance, or let the same to another knowing it is to be so used.

(Prior Code, § 8.34) Penalty, see § 10.99

§ 130.07 FURNISHING OBSCENE MATERIAL.

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

FURNISH. To sell, give, rent, loan or otherwise provide.

MATERIAL. Any printed matter, visual representation or sound recording, and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures and tape or wire recordings.

NUDITY. Uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered “uncovered” if the nipple only or the nipple and the areola only are covered.

OBSCENE. Material which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit descriptions or narrative accounts of sexual conduct.

OBSCENITIES. Those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

SADO-MASOCHISTIC ABUSE. Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

SEXUAL CONDUCT. Human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

SEXUAL EXCITEMENT. The condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

(B) *Unlawful act.* It is unlawful for any person to furnish a person under the age of 18 obscene material.

(C) *Prosecution.* Any prosecution under this section shall include the following elements: that the average person, applying contemporary community standards, would find the material, taken as a whole, appealing to the prurient interest of the audience or reader; that the material describes or depicts, in a patently offensive way, sexual conduct included in the definition of “obscene”; and, that the material, taken as a whole, lacks serious literary, artistic, political or scientific value.

(Prior Code, § 8.35) Penalty, see § 10.99

CHAPTER 131: UNSAFE STRUCTURES AND EQUIPMENT

Section

- 131.01 General
- 131.02 Definitions
- 131.03 Closing of vacant structures
- 131.04 Notice
- 131.05 Placarding
- 131.06 Prohibited occupancy
- 131.07 Variance
- 131.08 Unlawful acts
- 131.09 Notice of violation
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- 131.11 Abatement of violation
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- 131.13 Form
- 131.14 Method of service
- 131.15 Noncompliance
- 131.16 Transfer of ownership

§ 131.01 GENERAL.

When a structure or equipment is found by the code official to be unsafe, or when a structure is one that is found unfit for human occupancy, or is found unlawful, the structure shall be condemned pursuant to the provisions of this code.

(Ord. 05-68, passed 7-20-2005)

§ 131.02 DEFINITIONS.

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

STRUCTURE UNFIT FOR HUMAN OCCUPANCY. Whenever the code official finds that the structure is unsafe, unlawful or because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation,

illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to public.

UNLAWFUL STRUCTURE. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

UNSAFE EQUIPMENT. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that the equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

UNSAFE STRUCTURE. One that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because the structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of the faulty construction or unstable foundation, that partial or complete collapse is possible.
(Ord. 05-68, passed 7-20-2005)

§ 131.03 CLOSING OF VACANT STRUCTURES.

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be unattractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon the real estate and may be collected by any other legal resource.
(Ord. 05-68, passed 7-20-2005)

§ 131.04 NOTICE.

(A) Whenever the code official has condemned a structure or equipment under the provisions of this chapter, notice shall be posted in a conspicuous place in or about the structure affected by the notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with § 131.15.

(B) If the notice pertains to equipment, it shall also be placed on the condemned equipment.

(C) The notice prescribed above shall be in accordance with all of the following:

(1) Be in writing;

- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the violation or violations and why the notice is being issued;
- (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code;
- (5) Inform the property owner of the right to appeal; and
- (6) Include a statement of the right to file a lien in accordance with § 131.10.
(Ord. 05-68, passed 7-20-2005)

§ 131.05 PLACARDING.

(A) Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word “Condemned” and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

(B) The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

(Ord. 05-68, passed 7-20-2005) Penalty, see § 10.99

§ 131.06 PROHIBITED OCCUPANCY.

Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

(Ord. 05-68, passed 7-20-2005) Penalty, see § 10.99

§ 131.07 VARIANCE.

By written application to the city, the City Council shall have discretion to grant any individual a variance by majority vote of the Council after the variance has been considered. The application shall contain all the facts that support the basis of a variance. Upon the application, payment of the variance fee, open meeting and majority vote of the Council shall the variance be granted. The city maintains the discretion to place condition on the variance, as it deems reasonable.

(Ord. 05-68, passed 7-20-2005)

§ 131.08 UNLAWFUL ACTS.

It shall be a misdemeanor for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

(Ord. 05-68, passed 7-20-2005) Penalty, see § 10.99

§ 131.09 NOTICE OF VIOLATION.

The code official shall serve a notice of violation or order in accordance with § 131.04.

(Ord. 05-68, passed 7-20-2005)

§ 131.10 PROSECUTION OF VIOLATION.

Any person failing to comply with a notice of violation or order served in accordance with § 131.04 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate the violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on the premises shall be charged against the real estate upon which the structure is located and shall be a lien upon the real estate. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. 05-68, passed 7-20-2005)

§ 131.11 ABATEMENT OF VIOLATION.

The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(Ord. 05-68, passed 7-20-2005)

§ 131.12 NOTICE TO PERSON RESPONSIBLE.

Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in § 131.04 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with this chapter.

(Ord. 05-68, passed 7-20-2005) Penalty, see § 10.99

§ 131.13 FORM.

The notice prescribed in § 131.04 shall be in accordance with all of the following:

(A) Be in writing;

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

(C) Include a statement of the violation or violations and why the notice is being issued;

(D) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code;

(E) Inform the property owner of the right to appeal; and

(F) Include a statement of the right to file a lien in accordance with § 131.10.

(Ord. 05-68, passed 7-20-2005)

§ 131.14 METHOD OF SERVICE.

The notice shall be deemed to be properly served if a copy thereof is:

(A) Delivered personally;

(B) Sent by certified or first class mail addressed to the last known address; or

(C) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by the notice.

(Ord. 05-68, passed 7-20-2005)

§ 131.15 NONCOMPLIANCE.

Penalties for noncompliance with orders and notices shall be as set forth in § 131.08.

(Ord. 05-68, passed 7-20-2005)

§ 131.16 TRANSFER OR OWNERSHIP.

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of the dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until the owner shall first furnish the grantee, transferee,

mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed a notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by the compliance order or notice of violation.

(Ord. 05-68, passed 7-20-2005) Penalty, see § 10.99

CHAPTER 132: FAIR HOUSING

Section

- 132.01 Status with regard to public assistance
- 132.02 Definitions
- 132.03 Prohibited acts in regard to housing
- 132.04 Enforcement procedures
- 132.05 Statute of limitations

§ 132.01 STATUS WITH REGARD TO PUBLIC ASSISTANCE.

Discrimination with regard to housing on the basis of race, sex, creed, religion, marital status and disability adversely affects the health, welfare, peace and safety of the community. Persons subject to the discrimination suffer depressed living conditions, and create conditions which endanger the public peace and order. The public policy of the city is declared to be to foster equal opportunity for all to obtain decent, safe and sanitary housing without regard to their race, creed, color, national origin, marital status, disability status, sex and strictly in accord with their individual merits as human beings. It is also the policy of the city to protect all persons from unfounded charges of discrimination. (Prior Code, § 8.36-1) (Ord. 25, passed 10-14-1994)

§ 132.02 DEFINITIONS.

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

DISABILITY. A mental or physical condition which constitutes a handicap. Nothing in this section shall be construed to prohibit any program, service, facility or privilege afforded to a person with a ***DISABILITY*** which is intended to habitate, rehabilitate or accommodate that person.

DISCRIMINATE or ***DISCRIMINATION.*** Includes segregate or separate.

MARITAL STATUS. The standing, state or condition of one as single or married person. (Prior Code, § 8.36-2) (Ord. 25, passed 10-14-1994)

§ 132.03 PROHIBITED ACTS IN REGARD TO HOUSING.

It is an unlawful discriminatory practice and a misdemeanor offense:

(A) For any person to discriminate on grounds of race, creed, religion, color, sex, marital status, status with regard to public assistance, national origin, age or disability, in the sale, lease or rental of any housing unit or units;

(B) For any broker, salesperson or other person acting in behalf of another to so discriminate in the sale, lease or rental of any housing unit or units belonging to the other person;

(C) For any person engaged in the business of financing the purchase, rehabilitation, remodeling or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide the financing or insurance or to discriminate with regard to the terms or conditions thereof by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability of the applicant or because of the location of the unit or units in areas of the city occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability; or to discriminate by treating differently any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban area because of social, economic or environmental conditions of the area in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of services in connection therewith. The bona fide programs of federal, state or local governmental units or agencies, however structured or authorized to upgrade or improve in any manner a specific urban area, shall not be deemed to be a violation of this section;

(D) For any person, having sold, leased or rented a housing unit or units to any person, to discriminate with respect to facilities, services or privileges of occupancy by reason of race, color, sex, creed, religion, national origin, age or disability, marital status or status with regard to public assistance;

(E) For any person to make or publish any statement evidencing an intent to discriminate, on grounds of race, creed, religion, color, sex, national origin or ancestry, marital status, status with regard to public assistance, age or disability in the sale, lease or rental of a housing unit or units;

(F) For any person to make any inquiry regarding race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability, or to keep any record or use any form of application, designed to elicit the information, in connection with sale, lease, rental or financing of a housing unit or units;

(G) For any person, for the purpose of inducing a real estate transaction from which he or she may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition of the block, neighborhood or area in which the property is located, in respect of the race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability of those living there; or

(2) To represent that this change will or may result in the lowering of property values, an increase in crime, or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area concerned.

(H) Nothing in this section shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person who does not have a disability; nor shall this section be construed to relieve any person or persons regardless of any disability in a written lease, rental agreement or contract or purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement or contract; or

(I) The provisions of this section shall not apply to:

(1) The rental of a portion of a dwelling containing accommodations for two families, one of which is occupied by the owner; or

(2) The rental by an owner or occupier of a one-family accommodation in which he or she resides of a room or rooms in such accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance or disability. Nothing in this section shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability, nor shall this section be construed to relieve any person or person of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement or contract.

(Prior Code, § 8.36-3) (Ord. 25, passed 10-14-1994) Penalty, see § 10.99

§ 132.04 ENFORCEMENT PROCEDURES.

The city is designated as the enforcement agency for this section and shall have the power to receive, hear and determine complaints as provided herein. The city shall promptly investigate, upon complaint or upon its own motion, any violations of this section. If after investigation, it shall have reason to

believe a violation has occurred it may refer the matter to the City Attorney for criminal prosecution, or enter into a settlement agreement which, when approved by the city shall have the same force as a city order.

(Prior Code, § 8.36-4) (Ord. 25, passed 10-14-1994)

§ 132.05 STATUTE OF LIMITATIONS.

No action may be brought for civil enforcement or criminal prosecution unless the charge of alleged discriminatory practice was filed with the city within 180 days from the occurrence of the practice.

(Prior Code, § 8.36-5) (Ord. 25, passed 10-14-1994)

CHAPTER 133: CURFEW

Section

133.01 Curfew for minors

§ 133.01 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 10:30 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.

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

Penalty, see § 10.99

CHAPTER 134: SYNTHETIC DRUGS

Section

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§ 134.01 TITLE.

This chapter shall be known and cited as the “Synthetic Drug Ordinance”.
(Ord. 81, passed - -2013)

§ 134.02 INTENT.

It is the intent of the City Council to protect the health, safety and welfare of its citizens by regulating the sale of synthetic drugs as defined herein which, when consumed, mimic the effects of marijuana, narcotics and/or other controlled substances.
(Ord. 81, passed - -2013)

§ 134.03 AUTHORITY.

(A) This chapter is adopted by the city pursuant to the authority granted under M.S. Chapter 145A and § 412.221, as they may be amended from time to time.

(B) The provisions of this chapter shall be considered minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(C) It is not intended by this chapter to repeal, abrogate or impair any other existing city ordinance, however, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. (Ord. 81, passed - -2013)

§ 134.04 JURISDICTION.

The jurisdiction of this chapter shall include all lands of the city. (Ord. 81, passed - -2013)

§ 134.05 DEFINITIONS.

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

SYNTHETIC DRUG. One or more of the following:

- (1) A substance that a reasonable person would believe is a synthetic drug;
- (2) A substance that a reasonable person would believe is being purchased or sold as a synthetic drug; or
- (3) A substance that a person knows or should have known was intended to be consumed by injection, inhalation, ingestion or any other immediate means, and consumption was intended to cause or simulate a stimulant, depressant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance on Schedule 1. ***SYNTHETIC DRUG*** does not mean food and drug ingredients, alcohol, legend drugs, tobacco or dietary supplements;

SYNTHETIC DRUG ESTABLISHMENT. Any business establishment where any person engages in the sale of synthetic drugs. (Ord. 81, passed - -2013)

§ 134.06 LICENSE REQUIRED.

No person shall engage in the business of operating a synthetic drug establishment either exclusively or in connection with any other business enterprise without first obtaining a license for each synthetic drug establishment.

(Ord. 81, passed - -2013) Penalty, see § 10.99

§ 134.07 APPLICATION FOR LICENSE.

(A) Application for a synthetic drug establishment license shall be made to the Clerk on forms supplied by the city containing the following information:

- (1) A description of the business;
- (2) A description of the location of the premises to be licensed;
- (3) The full names and addresses of the property owner, business owner, lessee and manager, operator and the date of birth of each;
- (4) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the synthetic drug establishment; and
- (5) Whether any of the aforementioned individuals have ever been convicted of any crime or offense other than a traffic offense, and if so, a description of the offense as to time, place, date and disposition.

(B) The annual license fee shall be \$600. A separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place on the licensed premises at all times. A license, unless revoked, shall be effective January 1 through December 31 annually.

(Ord. 81, passed - -2013)

§ 134.08 ISSUANCE.

(A) No license under this chapter shall be issued unless it is approved by the Clerk upon advice from the Chief of Police or Law Enforcement Agency and the City Attorney, unless the establishment has passed fire and health inspections. The Clerk shall not approve any license if he or she has reasonable grounds to believe:

- (1) The granting of the license would result in violations of the law;
- (2) The license application contains false and misleading statements; or

(3) Other good cause exists for denying the license;

(B) If the Clerk finds that he or she does not have adequate information to evaluate the license application, he or she may direct the applicant, manager or agent to appear at any reasonable time and place to give under oath information concerning the application. No license shall be granted to any applicant who refuses to appear and cooperate with the investigation.

(Ord. 81, passed - -2013)

§ 134.09 SUSPENSION AND REVOCATION OF LICENSE.

The Clerk may revoke or suspend any license issued pursuant to this chapter, if, after giving the licensee an opportunity to be heard on the matter, the officer finds:

(A) The licensee has violated a provision of this chapter or any other law relating to the conduct of its operation including, but not limited to state, federal or local laws;

(B) The licensee secured the license through misrepresentation or fraud or misstated any material fact in the application;

(C) Failure of the licensee to cooperate with a licensed peace officer, fire or health officers in any investigation relating to their operations or failure to admit police officers into the establishment at any time when people are present in the establishment;

(D) The establishment is operated in such a way as to endanger public health or safety; or

(E) The establishment is operated in such a way as to constitute a public nuisance as defined in M.S. § 609.74, as it may be amended from time to time, or successor statute.

(Ord. 81, passed - -2013)

§ 134.10 APPEALS.

Any person aggrieved by a licensing decision of the City Clerk under this chapter may appeal the decision to the City Council by filing a written notice of appeal with the Clerk within 15 days after the decision is rendered. The decision of the Council is the final administrative decision of the city.

(Ord. 81, passed - -2013)

§ 134.11 PROHIBITED ACTS.

No synthetic drug establishment or its owner(s), operator(s), manager(s), employee(s) or agent(s) shall:

(A) Remain open between 8:00 p.m. and 8:00 a.m. on any day;

(B) Sell synthetic drug products that do not include the name, phone number and address of the manufacturer, packer and distributor of the product;

(C) Sell synthetic drug products that do not identify all commodities within the package, including organic and non-organic, chemically synthesized substances and compounds;

(D) Sell synthetic drug products to any individual under the age of 21;

(E) Sell synthetic drug products that do not comply with all state and federal laws and regulations, including those related to packaging, labeling and weights and measures; or

(F) Be located within 1,500 feet of any park, school, day care facility or area zoned residential or mixed-use neighborhood. This restriction shall not apply to a synthetic drug establishment that was conducting business at the location indicated in the application and making sales of synthetic drugs at that location on or before January 1, 2014.

(Ord. 81, passed - -2013)

§ 134.12 OTHER APPLICABLE LAWS.

This chapter is intended to complement state and federal laws regulating synthetic drugs.
(Ord. 81, passed - -2013)

§ 134.13 FILING OF ORDINANCE.

In accordance with the provisions of M.S. § 412.191, as it may be amended from time to time, governing enactment of ordinances, the title and a summary of this chapter shall be published in the official newspaper of the county at least once. Additionally, a printed copy of the entire ordinance shall be filed with the City Clerk and made available for inspection and use by any person during regular office hours at the office of the City Clerk.

(Ord. 81, passed - -2013)

§ 134.14 EFFECTIVE DATE.

This chapter shall take effect 30 days after its passage and publication.
(Ord. 81, passed - -2013)

