

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Curfew
- 130.02 Tobacco use by minors
- 130.03 Dangerous trespasses and other acts
- 130.04 Unlawful assembly; presence at unlawful assembly
- 130.05 Disorderly conduct
- 130.06 Bomb threats or obscene or annoying calls
- 130.07 Furnishing obscene material
- 130.08 Gambling

- 130.99 Penalty

Cross-reference:

Nuisances; Health and Safety, see Ch. 90
Streets and Sidewalks, see Ch. 95

§ 130.01 CURFEW.

(A) *Minors under the age of 18.* It is unlawful for any minor person under the age of 18 years to be or loiter upon the streets or public places between the hours of 11:00 p.m. and 5:00 a.m.

(B) *Parents and guardians.* It is unlawful for any parent, guardian or other person having the legal care or custody of any minor person to allow or permit the minor person to be or loiter upon the streets or public places in violation of this section, unless the minor is accompanied by a person of lawful age having the minor person in charge.

(C) *Places of amusement, entertainment or refreshment.*

(1) It is unlawful for any person operating, or in charge of, any place of amusement, entertainment or refreshment, or other place of business, to allow or permit any minor person to be or loiter in a place in violation of this section unless the minor is accompanied by a person of lawful age having the minor person in charge.

(2) This division (C) shall not be construed to permit the presence, at any time, of any person under age in any place where his or her presence is otherwise prohibited by law.

Windom - General Offenses

(D) *Exceptions.* This section does not apply to a minor who is:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
- (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- (9) Married or had been married or had disabilities of minority removed in accordance with state law.

(Prior Code, § 10.13) Penalty, see § 130.99

§ 130.02 TOBACCO USE BY MINORS.

(A) *"Minor" defined.* **MINOR** means any natural person who has not yet reached the age of 18 years.

(B) *Possession by minor.* It is unlawful for any minor to have in his or her possession any tobacco, tobacco product or tobacco-related device. This division (B) shall not apply to minors lawfully involved in a compliance check on behalf of the city.

(C) *Use by minor.* It is unlawful for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco-related device.

(D) *Procurement by or for minor.*

- (1) It is unlawful:

(a) For any minor to purchase, attempt to purchase or otherwise obtain any tobacco, tobacco products or tobacco-related device;

(b) For any person to purchase or otherwise obtain the items on behalf of a minor;

(c) For any person to sell or otherwise provide any tobacco, tobacco product or tobacco-related device to any minor; and

(d) For any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco-related device.

(2) This division (D) shall not apply to minors lawfully involved in a compliance check on behalf of the city.

(E) *False identification.* It is unlawful for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(F) *Exceptions and defenses.* Nothing in this section shall prevent the providing of tobacco, tobacco products or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It is an affirmative defense to the violation of this section for a person to have reasonably relied on proof of age as described by state law.

(G) *Penalty.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products or tobacco-related devices shall take tobacco-related education classes as directed by the Hearing Officer.

(Prior Code, § 10.14) (Ord. 101, 2nd Series, eff. 12-25-1997) Penalty, see § 130.99

§ 130.03 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 firefighter 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,

Windom - General Offenses

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 refuses to depart therefrom on demand of the lawful possessor;

(J) Occupies or enters 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; and/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, § 10.20) Penalty, see § 130.99

§ 130.04 UNLAWFUL ASSEMBLY; PRESENCE AT UNLAWFUL ASSEMBLY.

(A) *Unlawful assembly.* It is unlawful for three or more persons to assemble, and each participant shall be guilty of unlawful assembly, if the assembly is:

(1) With intent to commit any unlawful act by force;

(2) With intent to carry out any purpose in a manner as will disturb or threaten the public peace; and/or

(3) Without unlawful purpose, but the participants to conduct themselves in a disorderly manner as to disturb or threaten the public peace.

(B) *Presence at unlawful assembly.* It is unlawful for any person to be present at the place of an unlawful assembly and refuse to leave when so directed by a law enforcement officer.

(Prior Code, § 10.21) Penalty, see § 130.99

§ 130.05 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 or permit upon premises owned or controlled by him or her, 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 exposes his or her person or the private parts thereof, or procures another to so expose himself or herself; and any open or gross lewdness or lascivious behavior, or any act of public indecency;

(E) Voluntarily enters the water of any lake, river or city public swimming pool between the hours of 10:00 p.m. and 8:00 a.m., except with specific permission; or, enters the water 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) Races the motor of any motor vehicle;

(G) Causes the spinning or skidding of wheels or tires causing tire squeals or similar noise;

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

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

(J) Drinks or displays any intoxicating liquor or non-intoxicating malt liquor in or about any premises where the drinking or display is prohibited by law;

(K) Causes defacement, destruction or otherwise damage to any premises or any property located thereon;

(L) Strews, scatters, litters, throws, disposes of or deposits any refuse, garbage or rubbish onto any premises, except into receptacles provided for that purpose;

(M) Enters any motor vehicle of another without the consent of the owner or operator; and/or

(N) Fails or refuses 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 wife, children, employee or tenant of the owner or occupier.

(Prior Code, § 10.22) Penalty, see § 130.99

§ 130.06 BOMB THREATS OR OBSCENE OR ANNOYING CALLS.

(A) It is unlawful for any person to make or cause to be made a telephone call to threaten a bombing or threaten that a bomb or other explosive device or devices have been placed in any location.

(B) It is unlawful for any person to make a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to annoy, abuse, threaten or harass any person at the number called; or to make the telephone of another repeatedly or continuously to ring, with intent to harass any person at the number called; or by means of a telephone to make any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent.

(C) It is unlawful for any person knowingly to permit any telephone under his or her control to be used for any unlawful purpose described in this section.

(Prior Code, § 10.25) Penalty, see § 130.99

§ 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 the 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 another person obscene material.

(C) *Prosecution.* Any prosecution under this section shall include the following elements:

(1) 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;

(2) The material describes or depicts, in a patently offensive way, sexual conduct included in the definition of “obscene”; and/or

(3) The material, taken as a whole, lacks serious literary, artistic, political or scientific value.

(Prior Code, § 10.26) Penalty, see § 130.99

Cross-reference:

For similar sections, see § 111.017, Ch. 116 and § 118.112

§ 130.08 GAMBLING.

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

BET. A bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, property or benefit dependent upon chance although the chance is accompanied by some element of skill.

GAMBLING DEVICE. A contrivance which, for a consideration, affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance.

GAMBLING PLACE. A location or structure, stationary or movable, or any part thereof, wherein, as one of its uses, betting is permitted or promoted, a lottery is conducted or assisted or a gambling device is operated.

LOTTERY. A plan for the distribution of money, property or other reward or benefit to

persons selected by chance from among participants some or all of whom have given a consideration for the chance of being selected.

(B) *Gambling acts prohibited.* It is unlawful for any person to:

- (1) Make a bet;
- (2) Sell or transfer a chance to participate in a lottery;
- (3) Disseminate information about a lottery with intent to encourage participation therein;

and/or

(4) Permit a structure or location owned or occupied by him or her, or under his or her control, to be used as a gambling place.

(Prior Code, § 10.27) Penalty, see § 130.99

§ 130.99 PENALTY.

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by this chapter and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(Prior Code, § 10.99)