

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

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§ 130.01 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for 4 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.

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PLACES OF AMUSEMENT, ENTERTAINMENT, OR REFRESHMENT. 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, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 10:00 p.m. and 5:00 a.m. the following day, official city time. (Amended 6-10-2012)

(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, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 11:30 p.m. and 5:00 a.m. the following day, official city time. (Amended 6-10-2012)

(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;

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(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 a minor 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 1 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

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§ 130.02 DISORDERLY CONDUCT.

(A) *Disorderly conduct.* The doing of any of the following acts without authority of law in a public or private place, by any person or persons knowing, or having reasonable grounds to know, that it will or will tend to alarm, anger, or disturb others or provoke an assault or breach of the peace, is hereby declared to be disorderly conduct:

(1) Interfering with or obstructing the Fire Department while in performance of its duties; or

(2) Inhabiting or camping in any tent, trailer, or vehicle upon any public street, alley, or other public place within the city without lawful authority.

(B) *Disorderly conduct a misdemeanor.* Disorderly conduct is hereby prohibited and anyone doing any of the above acts shall be guilty of a misdemeanor.

(Ord. 117, passed 6-7-1977) Penalty, see § 130.99

§ 130.03 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.

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(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 6-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.

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(D) *Removal by the city.*

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

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

(E) *Penalty.*

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

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

(F) *Compliance by the city.*

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

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(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.
Penalty, see § 130.99

§ 130.04 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 ½ 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.*

(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) *Statute.* If any of the above provisions are found to be in conflict with M.S. § 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.
Penalty, see § 130.99

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§ 130.05 FIREWORKS.

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

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

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

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

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

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

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

§ 130.06 Tobacco.

Juvenile possession of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine delivery products.

Purpose

The City of Pine River hereby adopts the Minnesota legislature's finding, as stated in Minn. Stat. § 144.391, that: (1) smoking causes premature death, disability, and chronic disease, including cancer and heart disease, and lung disease; (2) smoking related diseases result in excess medical care costs; and (3) smoking initiation occurs primarily in adolescence. The city also adopts the legislature's desire to prevent young people from starting to smoke, to encourage and assist smokers to quit, and to promote clean indoor air. Because the City recognizes that many persons under the age of 21 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine delivery products and that such possession and use are violations of State and Federal laws; and pursuant to the mandates contained in state and

federal law this ordinance is intended to regulate the possession, and use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine delivery products for the purpose of enforcing and furthering existing laws and state mandates, and to protect the public against the serious effects associated with the use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine delivery products. The purpose of this ordinance is to reduce the appeal to youth and young adults and reduce the likelihood that youth and young adults will become users of tobacco-related products later in life, thereby promoting health, safety, and welfare.

Definitions

Tobacco or Tobacco Products.

“Tobacco” means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Tobacco Related Devices.

“Tobacco Related Devices” means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

Electronic Delivery Device.

“Electronic Delivery Device” means any product containing or delivering nicotine, THC, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. “Electronic delivery device” includes any component part of a product, whether marketed or sold separately. “Electronic delivery device” excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Nicotine Delivery Products.

“Nicotine Delivery Products” are any product containing or delivering nicotine intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States

Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Violations

Illegal Possession.

It shall be a violation of this ordinance for any person under the age of 21 to have in his or her possession any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine delivery product.

Illegal Use.

It shall be a violation of this ordinance for any person under the age of 21 to smoke, chew, snuff, or otherwise use any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine delivery product.

Prohibited Furnishment or Procurement.

It shall be a violation of this ordinance for any person under 21 years of age to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine delivery products. It shall further be a violation for any person to coerce or attempt to coerce a person under 21 years of age to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine delivery products.

Use of False Identification.

It shall be a violation of this ordinance for any person under 21 years of age 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 on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person in attempt to obtain tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine delivery products.

Notice.

Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation from the City that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation, and how and where a hearing may be requested, including a contact address and phone number.

Hearings.

Upon issuance of a citation, a person accused of violating this Section may request in writing a hearing on the matter. Hearing requests must be made within ten business days of the issuance of the citation and delivered to the City Clerk or other designated city officer. Failure to properly request a hearing within ten business days of the issuance of the citation will terminate the person's right to a hearing. If a person accused of violating this section submits a timely request for a hearing, the City Clerk or other designated city officer will set the time and place for the hearing. Written notice of the hearing time and location will be mailed or delivered to the accused violator at least ten business days prior to the hearing.

Hearing Officer.

The City Council shall serve as the hearing officer.

Decision.

If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. The decision may include administrative fines, non-monetary civil penalties such as community services, or another penalty that the hearing officer determines to be appropriate. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded, and a copy provided to the acquitted accused violator. The decision of the hearing officer is final.

Continued Violation

Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Administrative Penalties.

Persons under the Age of 21. Persons under the age of 21 found to be in violation of this ordinance shall be charged an administrative fine in the amount of \$25. Every subsequent violation will result in an increase of \$10 from the previously imposed fine. Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed products may be subject to noncriminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the City determines to be appropriate. The City Council will consult with interested persons, as applicable, including but not limited to court personnel, educators, parents, guardians, and persons under the age of 21 years to determine an appropriate penalty for persons under the age of 21 in the city. The penalty may be established by ordinance and amended from time to time.

Statutory Penalties.

If the administrative penalty authorized to be imposed by Minn. Stat. § 461.12, as it may be amended from time to time, differ from that established in this section, then the higher penalty will prevail.

Exceptions and Defenses.

Nothing in this section shall prevent the providing of tobacco, tobacco products, tobacco related devices to a person under 21 years of age as a part of a lawfully recognized religious, spiritual, or cultural ceremony.

§ 130.99 PENALTY.

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

(B) *Curfew penalties.*

(1) *Minors.* Any minor found to be in violation of § 130.01 of this code may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. Ch.260B, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of § 130.01 of this code shall be guilty of a misdemeanor.

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