

## TITLE XIII: GENERAL OFFENSES

Chapter

### 130. GENERAL OFFENSES

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Section

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***Cross-reference:***

*Parking Regulations, see Ch. 71*

*Recreational Vehicles, see Ch. 73*

### § 130.01 CURFEW FOR MINORS.

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

***CURFEW HOURS.*** 11:00 p.m. on any given day until 6:00 a.m. of the following day.

***EMERGENCY.*** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

***ESTABLISHMENT.*** Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

***GUARDIAN.***

(a) A person who, under court order, is the guardian of the person of a minor; or

(b) A public or private agency with whom a minor has been placed by a court.

***MINOR.*** Any person under 17 years of age.

**OPERATOR.** Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

**PARENT.** A person who is:

- (a) A natural parent, adoptive parent, or stepparent of another person;
- or
- (b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

**PUBLIC PLACE.** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

**REMAIN.** To:

- (a) Linger or stay; or
- (b) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

**SERIOUS BODILY INJURY.** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(B) *Restrictions.*

(1) It shall be unlawful for any minor to remain in any public place or on the premises of any establishment within the City of Nashwauk during curfew hours.

(2) It shall be unlawful for any parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours. The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.

(3) It shall be unlawful for any owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

(C) *Exceptions.*

(1) The following shall constitute valid exceptions to the operation of the curfew. That the minor was:

- (a) Accompanied by the minor's parent or guardian;
- (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (c) In a motor vehicle involved in interstate travel;
- (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (e) Involved in an emergency;
- (f) 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;
- (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Nashwauk, 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 of Nashwauk, a civic organization, or another similar entity that takes responsibility for the minor;

(h) 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

(i) Married or had been married.

(2) It is a defense to prosecution under division (B) above that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in division (C) above is present.

(E) *Violations.* Any minor who is convicted of a violation of this section after the case has been referred for prosecution in the trial court under M.S. Ch. 260B, as it may be amended from time to time, and any adult person having the care and custody of the minor, is guilty of a petty misdemeanor.

(F) *Council review of provisions.* Within 6 months after the initial enforcement of this section, the City Council shall review this section with regard to the effectiveness of and the continuing need for the section. The City Council shall specifically consider the following:

- (1) The practicality of enforcing this section and any problems with enforcement identified by the Police Department;
- (2) The impact of this section on crime statistics;
- (3) The number of persons successfully prosecuted for a violation of this section; and
- (4) The city's net cost of enforcing this section.

(G) *Effective date.* This section shall take effect immediately from and after its passage and publication according to law.

(Ord. 195, passed 7-10-1996) Penalty, see § 10.99

### **§ 130.02 SKATEBOARDS.**

(A) It shall be unlawful for any person within the City of Nashwauk to use or operate a skateboard on the public streets or alleys within the City of Nashwauk.

(B) Penalty for violation of this section shall be a petty misdemeanor.

(C) This section shall be effective on its passage and publication.

(Ord. 181, passed 9-17-1990) Penalty, see § 10.99

### **§ 130.03 ELECTRICAL INTERFERENCE WITH RADIO RECEPTION PROHIBITED.**

(A) It shall be unlawful for any person, firm, co-partnership, association, or corporation knowingly or wantonly to operate or cause to be operated any machine, device, apparatus, or instrument of any kind whatsoever within the corporate limits of the City of

Nashwauk, Minnesota, which shall cause reasonably preventable electrical interference with radio reception within the municipal limits.

(B) A correction of the violation of this section shall be made within 10 days after a notification of the violation, and after 10-days period, each day thereafter during which the violation continues shall constitute a separate offense.

(C) This section shall not be held or construed to embrace or cover the regulations of any transmitter, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce, or the operation of which instrument, apparatus, or device is licensed or authorized by or under the provisions of any act of the Congress of the United States.

(Ord. 29, passed - -) Penalty, see § 10.99

### **§ 130.04 PUBLIC URINATION AND DEFECATION.**

(A) *Public urination and defecation.*

(1) It is unlawful for any person to urinate or defecate in public, other than when using a toilet, urinal, or commode located in a restroom, bathroom or other structure enclosed from public view.

(2) The provisions of this section shall not apply to the following individuals who may not be able to adequately control the bodily functions that control urination or defecation:

- (a) Children five years of age or younger;
- (b) Persons of any age who violate this section due to a verified

medical condition.

(B) Any person who violates the provisions of this section who does not meet an exception listed in division (A)(2) shall be subject to a fine of not less than \$100 nor more than \$500 or a term of imprisonment of not more than 90 days or both a fine and term of imprisonment.

(Ord. 225-13, passed 9-25-2013)

### **§ 130.05 CONSUMPTION OF CERTAIN SUBSTANCES AND LICENSING SYNTHETIC DRUG ESTABLISHMENTS.**

(A) *Consumption of Products Not for Human Consumption.* The city findings and facts states:

(1) The consumption of products labeled not for human consumption is a public health hazard, creates public nuisances and results in an increased need for public safety services; and

(2) Health hazards associated with the consumption of these products include addiction, psychosis, strokes, anxiety, stimulation, and other physical and mental disorders; and

(3) Prohibiting the consumption of products labeled not for human consumption will provide for better public health and safety.

(B) This section is intended to compliment state and federal laws regulating products labeled not for human consumption including synthetic drugs.

(C) (1) It is a violation of this section for any person to intentionally consume any product labeled not for human consumption.

(2) It is a violation of this section to intentionally aid another in violation of this division;

(3) For the purpose of this section, consume or consumption shall include eating, drinking, smoking, injecting, and inhalation;

(4) It is not a violation of this section if a person is acting under the written direction and supervision of medical doctor.

(Ord. 226-13, passed 9-25-2013)

### **§ 130.06 SEXUAL OFFENDERS AND SEXUAL PREDATORS RESIDENCY.**

(A) *Findings and intent.* The city finds and states:

(1) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(2) It is the intent of this section to serve the city's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

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

**DESIGNATED OFFENDER.** Any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, and who has been categorized as a Level III sex offender under M.S. § 244.052 or successor statute.

**DESIGNATED SEXUAL OFFENSE.** A conviction, adjudication of delinquency, commitment under M.S. Chapter 253B, or admission of guilt under oath without adjudication involving any of the following offenses: M.S. §§ 609.342 through 609.345, 609.352, 609.365, 617.23, 617.246, 617.247, and/or 617.293; successor statutes; or a similar offense from another state.

**PERMANENT RESIDENCE.** A place where the person abides, lodges, or resides for 14 or more consecutive days.

**TEMPORARY RESIDENCE.** A place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

(C) *Sexual offender and sexual predator residence prohibition; penalties; exceptions.*

(1) *Prohibited location of residence.* It is unlawful for any designated offender to establish a permanent residence or temporary residence:

(a) Within 2,000 feet of any school, licensed day care center, park, or playground; or

(b) Within 1,000 feet of any designated public school bus stop, place of worship which provides regular educational programs (for example, Sunday school), or other places where children are known to congregate.

(2) *Prohibited activity.* It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this division.

(3) *Measurement of distance.*

(a) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of a school, designated public school bus stop, day care center, park, playground, place of worship, or other place where children regularly congregate.

(b) The City Clerk shall maintain an official map showing prohibited locations as defined by this section. The Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones.

(4) *Penalties.* A person who violates this section shall be guilty of a misdemeanor. Each day a person maintains a residence in violation of this section constitutes a separate violation.

(5) *Exceptions.* A designated offender residing within a prohibited area as described in division (C)(1) does not commit a violation of this section if any of the following apply:

(a) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. §§ 243.166, 243.167, or successor statute, prior to this section's adoption.

(b) The person was a minor when he/she committed the offense and was not convicted as an adult.

(c) The person is a minor.

(d) The school, designated public school bus stop, or day care center within 2,000 feet of the persons permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. §§ 243.166 or 243.167.

(e) The residence is also the primary residence of the person's parent, grandparent, sibling, spouse, or adult child.

(D) *Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.*

(1) It is unlawful to let or rent any place, structure or part thereof, trailer, or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this section, if such place, structure or part thereof, trailer, or other conveyance, is located within a prohibited location zone described in division (C)(1).

(2) A property owner's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures as provided in city ordinances that allow the city to seek relief as otherwise provided by law.

(3) If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may evict the offender.

(Ord. 130.06, passed 11-14-2017)

### **§ 130.07 PARKING OF RECREATIONAL CAMPING VEHICLES.**

No recreational camping vehicle as defined in M.S. § 327.14 shall at any time be parked in any place within the corporate limits of the city, except in a state licensed trailer coach park, provided, however, the owner or occupant of premises used by him for dwelling purposes may park a recreational camping vehicle as defined in M.S. § 327.14, or permit his guest or visitor, without charging a fee therefore, to park a recreational camping vehicle on or upon such premises for not more than 2 weeks of and when such premises are equipped with sanitary recreational camping vehicle. No toilet situated in any recreational camping vehicle shall be used while it is located on such premises. Upon the termination of the period provided for the parking of a recreational camping vehicle, the owner of such premises may keep or store such recreational camping vehicle, when not used for habitation, in or upon such premises in the usual or ordinary manner followed on the storing or keeping of other motor vehicles in private or public garages.

(Ord. 227-15, passed 5-12-2015)