

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES

CHAPTER 130: OFFENSES

Section

- 130.01 Offenses against public welfare
- 130.02 Gambling
- 130.03 Prostitution
- 130.04 Offenses as to public places
- 130.05 Offenses as to property
- 130.06 Curfew

- 130.99 Penalty

' 130.01 OFFENSES AGAINST PUBLIC WELFARE.

(A) *Intoxication.* No person shall become drunk, intoxicated, or under the influence of intoxicating liquor in any private house or place to the annoyance of any person. No person shall be or remain in a state of intoxication, drunkenness, or under the influence of intoxicating liquor in any public place.

(1985 Code, ' 7.0101)

(B) *Disorderly conduct.* No person shall conduct himself or herself in any unseemly manner or way or in any manner tending to degrade or unsuited to the promotion of the morals, health, or comfort of the inhabitants of the city.

(1985 Code, ' 7.0102)

(C) *Disturbing the peace.* No person or said person=s animals shall disturb the peace of the city or of any person by violent or by loud or unusual noises or by profane, obscene, violent, or threatening language; or by assaulting, striking, or attempting to assault or strike another person; or inviting or defying another person to fight or quarrel; or by willfully and maliciously destroying or attempting to destroy or injure any property belonging to another; or by engaging in a fight with another.

(1985 Code, ' 7.0103)

(D) *Vagrancy.*

(1) It shall be unlawful for any vagrant to be or remain within the limits of the city.

(2) A **VAGRANT** is an idle person having no legitimate means of support who does not seek

or desire lawful employment and who subsists through charity of other or by unlawful means.

(3) Whenever it shall, in a prosecution under this division (D), be shown that any person who is able to work:

(a) Wanders about in idleness or lives in idleness without property sufficient for his or her support;

(b) Leads an idle, immoral, or profligate life and does not work;

(c) Loafs, loiters, or idles in the city, upon a public highway, or about any public place without any regular employment and without sufficient property for his or her support;

(d) Trades or barter stolen property;

(e) Unlawfully sells or barter any spirituous, vinous, malt, or other intoxicating liquors;

(f) Attends or operates any gambling device or apparatus;

(g) Engages in practicing any trick or device to procure money or other things of value;

(h) Engages in any lawful calling;

(i) If an able-bodied married man or woman, neglects or refuses, without lawful excuse, to provide support for his or her family;

(j) Begs in any public place or from house to house, or induces children or others to do so; or

(k) Falsely represents himself or herself as a collector of alms for a charitable institution or purpose, it shall constitute a prima facie presumption that such person is a vagrant as defined in this division (D).

(1985 Code, ' 7.0104)

(E) *Carrying concealed weapons.* No person shall carry concealed about his or her person any pistol or other firearm, sling shot, brass knuckle, or knuckles of other material or any sand bag, dagger, bowie knife, dirk knife, or other dangerous or deadly weapon, or any instrument or device which when used is likely to produce death or great bodily harm. Any peace officer may wear or carry such weapons as may be necessary and proper for the discharge of his or her official duties.

(1985 Code, ' 7.0105)

(F) *Resisting, escaping from, or assaulting an officer.* No person shall resist or obstruct any police officer in the performance of any official duty, nor in any way aid or assist any person to resist or escape from such officer, nor assist any person to escape from any lawful confinement. No person shall assault or strike any police officer, nor in any way interfere with a police officer in the discharge of his or her duty.

(1985 Code, ' 7.0106)

(G) *Impersonating and officer.* No person not duly authorized shall exercise the duties conferred by law upon a police officer, wear a police officer=s badge or represent himself or herself as being a police officer or peace officer, or attempt to exercise the duties of a police officer or peace officer. (1985 Code, ' 7.0107)

(H) *Public indecency.*

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

NUDITY. The showing of the human male or female genital, pubic area, or cleft of the buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum, anal region, or pubic hair region; the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which devices simulate and give the realistic appearance of nipples and/or areola; or the showing of the covered male genitals in a discernibly turgid state.

PUBLIC PLACE. Any location frequented by the public, or where the public is present, or likely to be present, where a person may reasonably be expected to be observed by members of the public. **PUBLIC PLACES** include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, nightclubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal, or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a **PUBLIC PLACE**. The term **PUBLIC PLACE** shall not include movie theaters, theaters used for production of legitimate theater and theatrical productions, enclosed single sex and unisex public restrooms, enclosed single sex and unisex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors= offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor shall it include a person appearing in a state of nudity in a modeling class operated by:

1. A proprietary school licensed by the state, a college, junior college, or university supported entirely or partly by taxation; or
2. A private college or university, which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college.

(2) *Committing public indecency; exception.*

(a) A person who knowingly or intentionally does any of the following in a public place commits public indecency:

Parkston - General Offenses

1. Engages in sexual intercourse;
2. Engages in deviate sexual intercourse;
3. Appears in a state of nudity; or
4. Fondles the genitals of himself or herself or another person.

(b) The prohibition set forth in division (H)(2)(a)3. above shall not apply to:

1. Any child under ten years of age; or
2. Any individual exposing a breast in the process of breastfeeding an infant.

(3) *Abatement of nuisance.* In addition to the specific penalties provided in this division (H), it is hereby declared that any building, portion of a building, or enclosed place regularly used for the prohibited display of public nudity is a public nuisance, subjecting the owner, proprietor, or other operator thereof to any and all actions authorized by state statute or city ordinance for the abatement of public nuisances.

(4) *Construction.* It is the intention of the city that the provisions of this division (H) be construed, enforced, and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection, or other fundamental rights consistent with the purposes of this division (H). Should a court of competent jurisdiction determine that any part of this division (H), or any application or enforcement of it, is excessively restrictive of such rights or liberties, then such portion of this division (H), or specific application of this division (H), shall be severed from the remainder, which shall continue in full force and effect.
(1985 Code, ' 7.0108)

(I) *Insulting person.* No person shall make any impudent, insulting, or licentious advance or salutation to any person upon any street or in any public place.
(1985 Code, ' 7.0109)

(J) *Profanity.* No person shall use any profane, vulgar, or obscene language upon any street or other public place.
(1985 Code, ' 7.0110)

(K) *Obscene written and printed matter.* No person shall exhibit, publish, pass, sell, or offer for sale, or have in his or her possession with such intent, any obscene, lewd, or lascivious books, pamphlets, papers, magazines, writings, advertising circulars, cards, prints, letters, pictures, drawings, films, or other immoral, lewd, or indecent representations or publications.
(1985 Code, ' 7.0111)

(L) *False emergency alarms prohibited.* No person shall knowingly make or give any false alarm of fire or other emergency, by calling or causing to be called the Fire Department, the police officers, or any authorized emergency vehicle.

(1985 Code, ' 7.0112)

(M) *Displaying license unlawfully.* No person shall carry or display any city license or permit which has been terminated or revoked or which has not been lawfully procured and issued.

(1985 Code, ' 7.0113)

(N) *Discharge of firearms, fireworks, or air rifles.* It shall be unlawful for any person except a public officer or specially appointed officer in the discharge of his or her duty, to discharge or fire any gun, fireworks, air rifle, sling shot, or other dangerous weapon within the limits of the city.

(1985 Code, ' 7.0114)

(O) *Blasting powder.* No person shall keep or store blasting powder in quantities of more than 25 pounds in the city, and all blasting powder shall be kept in metal containers equipped with a tight-fitting lid or cover.

(1985 Code, ' 7.0115)

(P) *Dynamite.* No person shall keep or store any dynamite or dynamite caps within the city.

(1985 Code, ' 7.0116)

(Q) *Gasoline in fire limits.* No person shall keep within any building within the fire limits of the city gasoline, naphtha, or kerosene in quantities of more than five gallons, unless such gasoline, naphtha, or kerosene is kept in steel or iron tanks buried at least two feet beneath the surface of the ground, nor shall any person keep on his or her premises anywhere within the city any gasoline in quantities of more than five gallons without reporting the same to the Fire Chief of the City Fire Department.

(1985 Code, ' 7.0117)

(Ord. 287, passed 1-9-2007) Penalty, see ' 130.99

' 130.02 GAMBLING.

(A) *Gambling prohibited.* No person shall in the city, or within one mile of the outer boundaries thereof, play at roulette, chuck-luck, poker, faro, keno, or any other gambling game or game of chance upon which money or any article of value is staked, or to resort, to attend, or be present at any place where such gambling games of chance are carried on.

(1985 Code, ' 7.0201)

(B) *Maintaining gambling devices prohibited.* It shall be unlawful for any person to maintain, keep, or exhibit in the city, or within one mile of the outer boundaries thereof, any slot machine wherein the gain by chance is involved, or any table, cards, dice used, or intended to be used in playing any game of cards, faro, dice, or other gambling game or game of chance for money or other articles of value.

(1985 Code, ' 7.0202)

(C) *Gambling house prohibited.* No person shall in the city, or within one mile of the outer boundaries thereof, keep any building or part of a building to be used or occupied for gambling. Any owner, agent, or superintendent of such place shall not knowingly let the same or allow it to be used for gambling.

(1985 Code, ' 7.0203)

(D) *Operators of gambling houses.* No person shall, within the city or within one mile of the outer boundaries thereof, act as game keeper of or have charge of and manage any gambling game or games of chance upon which money or other articles of value are staked, or act as doorkeeper, solicitor, runner, agent, or abettor of or for any house wherein any gambling games or games of chance for money or other articles of value are practiced or allowed to practiced or carried on.

(1985 Code, ' 7.0204)

(E) *Gambling apparatus nuisance.* Every article, apparatus, or device used, operated, or kept in violation of any of the provisions of this section shall be deemed a public nuisance, and may be seized by the officers at the time of the arrest of a person for the violation of any provision of this section, having the same in his or her possession. Upon conviction of such person for such violation, said gambling apparatus or article may be destroyed under the order of the court.

(1985 Code, ' 7.0205)

Penalty, see ' 130.99

' 130.03 PROSTITUTION.

(A) *Leasing room or house for prostitution.* No person shall knowingly let or lease to another any room, house, or building for the purpose of being used as a place of prostitution within the city or within one mile of the outer boundary thereof. Any person after having been informed that such room, house, or building so let or leased by him or her is being used for such purpose by the lessee or any other person shall immediately take all legal measures to recover possession thereof.

(1985 Code, ' 7.0301)

(B) *Keeping house of prostitution.* No person shall keep a house or place of prostitution within the city, or within one mile of the outer boundary thereof, nor harbor or allow any person to be and remain in any such house or place.

(1985 Code, ' 7.0302)

(C) *Frequently house of prostitution.* No person shall frequent any house or place of prostitution, nor be an inmate or visitor of such house or place within the city or within one mile of the outer boundary thereof.

(1985 Code, ' 7.0303)

(D) *Prostitution prohibited.* No person shall use or occupy any room, house, or place for the purpose of prostitution, nor engage in prostitution within the city or within one mile of the outer

boundary thereof.

(1985 Code, ' 7.0304)

(E) *Enticing*. No person shall within the city, or within one mile of the outer boundary thereof, solicit, entice, or urge any person to enter a house of prostitution, nor solicit any person to occupy any room, house, building or other place for the purpose of prostitution.

(1985 Code, ' 7.0305)

Penalty, see ' 130.99

' 130.04 OFFENSES AS TO PUBLIC PLACES.

(A) *Gathering on streets limited*. No person shall call or cause the gather in of any crowd of people or address or exhibit any show or performance to such crowd, in any alley, street, or other public ground of the city without written permission of the Mayor.

(1985 Code, ' 7.0501)

(B) *Crowds obstructing streets*. It shall be unlawful for persons to gather crowds or groups or for any person to stand on any public street or sidewalk in such a manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any police officer is authorized to disperse any crowd or group or to cause the removal of any person violating the provisions of this section and to summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way or preventing annoyance to any passerby on any public street or sidewalk.

(1985 Code, ' 7.0502)

(C) *Hindering of molesting passerbys*. No person shall upon any street or at the entrance of any building on any such street, alley, or sidewalk, wrongfully hinder, impede, or molest any passerby, or use any rude, obscene, vulgar, indecent, or threatening language to any passerby, or by any indecent act, gesture, or noise, molest, annoy, or insult or put in fear any person passing or attempting to pass on such street, alley, sidewalk, or through the entrance to such building.

(1985 Code, ' 7.0503)

(D) *Certain advertising methods prohibited*. No person shall put up, erect, hang, post, or suffer to remain so placed any sign, poster, notice, or other advertising matter, upon any telephone, telegraph, or electric light pole in the city.

(1985 Code, ' 7.0504)

(E) *Littering*. Any person who places or allows to be placed any garbage, refuse, ashes, cans, bottles, junk, or other waste material or offensive matter on any street, alley, city, or other city ground, except as authorized by the proper city officials having in charge such public places, shall be guilty of littering and upon conviction shall be punishable by a fine set by resolution of the City Council and may be amended by the Council from time to time.

(1985 Code, ' 7.0505)

Penalty, see ' 130.99

' 130.05 OFFENSES AS TO PROPERTY.

(A) *Injuring signs.* No person shall deface, remove, change, mar, or in any way interfere with or obliterate either wholly or in part any sign, signboard, or card, placed, posted, extended, or erected by the city.

(1985 Code, ' 7.0701)

(B) *Traffic signs; injuring or placing unauthorized prohibited.* No person shall deface, injure, move, obstruct, or interfere with any official traffic sign or signal, or street sign, or parking meter.

(1985 Code, ' 7.0702)

(C) *Destroying trees and plants.*

(1) No person shall willfully injure, destroy, or deface any tree, shrub, plant, or grass in any parking lot or park.

(2) No person shall willfully injure or destroy any cultivated fruits or vegetables, ornamental trees, shrubs, hedges, vines, or flowers, nor injure or carry off any of the products thereof which are the property of another.

(1985 Code, ' 7.0703)

(D) *Interference with electric light posts and apparatus.* No person shall interfere with, injure, break, or jar any electric light, telephone, telegraph, or fire alarm system, post, or pole or apparatus in any manner, or climb any telegraph, telephone, electric, or fire alarm pole without being properly authorized so to do.

(1985 Code, ' 7.0704)

(E) *Unauthorized connection with gas, water, or electrical pipe or wire.* No person shall, without lawful authority, connect or cause to be connected with any main service pipe, wire, or other conductor of any gas, water, or electrical energy any pipe, wire, or other device for the purpose of obtaining gas, water, or electrical current therefrom; nor shall with intent to defraud, connect, or cause to be connected with any meter installed for the purpose of registering the amount of gas, water, or electricity supplied to any customer, any pipe, wire, or other device or disconnect, change, or in any manner so interfere with any such meter or any pipe, wire, or appliance connected therewith, that such meter will not measure or register the full amount of gas, water, or electricity supplied to any customer.

(1985 Code, ' 7.0705)

(F) *Interference with City Engineer, instruments, stakes.* No person shall interfere with the City Engineer while engaged in his or her official duties in any manner or by driving any vehicle of any kind against the person, surveying instruments, or apparatus of said City Engineer or any of his or her assistants, or by moving or displacing any stake, monument, or bench mark fixed or located by him or his or her assistants.

(1985 Code, ' 7.0706)

(G) *Interference with city property.* No person shall climb or in any manner interfere with any building, water tower, bridge, or structure belonging to the city without being authorized so to do by the city; and no person shall in any manner injure or deface any such structure.

(1985 Code, ' 7.0707)

(H) *Destroying property.* No person shall willfully damage, deface, break, destroy, or interfere with the property of the city or of another person.

(1985 Code, ' 7.0708)

(I) *Fences.* No person, firm, or corporation shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained in the city any fence of any character or material exceeding five feet in height when the same is within 40 feet of the street line; and provided further, that no fence or any part thereof shall be constructed of barbed wire.

(1985 Code, ' 7.0709)

Penalty, see ' 130.99

' 130.06 CURFEW.

(A) No minor under the age of 16 years shall be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots, or other unsupervised public places within the city between the hours of 11:00 p.m. and 5:00 a.m. on Sunday through Thursday, nor between the hours of 12:00 a.m. and 6:00 a.m. on Fridays and Saturdays.

(1985 Code, ' 7.0901)

(B) 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;

Parkston - General Offenses

(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 U.S. 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.

(C) It shall be the right of any authorized officer or person to detain or take into custody any minor violating the curfew and to keep said minor detained until his or her parent, guardian, or custodian is notified when said minor may be released upon the giving of a promise by the minor and his parent, guardian, or custodian will appear at a stated time before the proper authority to answer the charges.

(1985 Code, ' 7.0904)

(Ord. 139, passed 10-10-1989)

(D) 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, including any investigation that a reasonable person would deem necessary, none of the exceptions enumerated in this section apply.

Penalty, see ' 130.99

' 130.99 PENALTY.

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

(B) Whoever violates any provision ' 130.01(H), either by commission of a public indecency or by the promotion or maintenance of public indecency as property owner, proprietor, or manager of a business, upon conviction, shall be punished by fine set by resolution of the City Council and may be amended by the Council from time to time. Each day such violation continues is a separate offense.

(1985 Code, ' 7.0108) (Ord. 287, passed 1-9-2007)