

TITLE XIII: GENERAL OFFENSES

Chapter

130. PUBLIC PROTECTION, CRIMES, AND OFFENSES

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† **130.01 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;

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(3) Manufacture or sell for any unlawful purpose any weapon known as a slung-shot or sand club;

(4) Manufacture, transfer, or possess metal knuckles or a switch blade knife opening automatically;

(5) Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another;

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

(7) 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.

(B) *Exception.* Nothing in division (A) above shall prohibit the possession of the articles herein 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 bow and arrow, 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 BB gun.

(D) *Exceptions.* Division (C) above shall not apply to the discharge of firearms or fireworks by an organization or group of organizations authorized in writing by the City Council, and, as to discharge of firearms, division (C) above shall not apply to:

- (1) A peace officer in the discharge of their duties;
- (2) A person in the lawful defense of their person or family;
- (3) A peace officer or a member of the Hastings Police Department or its reserves and the participants in a firearm safety program approved by the Hastings Police Department.
- (4) Individuals hunting for small game or wild turkey within the area designated and managed by the Minnesota Department of Natural Resources as the “Gores State Wildlife Management Area (WMA)” while the hunter is in compliance with all Minnesota Statutes and Rules for regulated harvest of wildlife and WMA use and provided that the method of taking is restricted to use of shotguns with fine shot (No. BBB or smaller diameter shot); or
- (5) Participants in Minnesota Department of Natural Resources administered controlled deer management hunts within the Gores State Wildlife Management Area (WMA) and State Aquatic Management Area (AMA), as authorized in writing by the City Council and by the Commissioner of the Minnesota Department of Natural Resources, provided the hunter is in compliance with all current Minnesota Statutes and Rules for regulated harvest of wildlife and WMA and AMA use, including the provisions of the aforementioned controlled deer management hunts as to limits on the number of hunters, the length of the hunt and the use of shotguns with slugs.

(E) *Use of bow and arrow.* It is unlawful for any person to shoot a bow and arrow except for:

- (1) Participants in the Physical Education Program of a school supervised by a member of its faculty, a community-wide supervised class, or an event specifically authorized by the Chief of Police; or
- (2) Any person who has been issued a valid archery hunting license by the Minnesota Department of Natural Resources for small game, deer or wild turkey harvest while hunting within the Gores State Wildlife Management Area (WMA), provided the permitted hunter is in compliance with all current Minnesota Statutes and Rules for regulated harvest of wildlife and WMA use. (Prior Code, § 9.20) (Ord. 2008-13, 3rd Series, passed 10-20-2008) Penalty, see § 10.99

§ 130.02 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 permanently 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, navigable water, or in the air;

(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 fowl 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 boundary, line of political subdivision, or a tract of land;

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

(J) 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

(K) 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, § 9.23) 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 lawful 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 within the limit of the city between the hours of 10:00 p.m. and 8:00 a.m.; or one 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 squeal or similar noise;

(H) Causes 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;

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

(J) Drinks or displays any intoxicating liquor or 3.2% 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 unto any premises except in receptacles provided for the purpose;

(M) Enters any motor vehicle of another without the consent of the owner or operator; 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 spouse, children, employee, or tenant of the owner or occupier. (Prior Code, § 9.27) Penalty, see § 10.99

§ 130.04 ROLLER BLADES, ROLLER SKATES, ROLLER SKIS, AND SKATEBOARDS.

(A) *Scope of application.* The purpose of this section is to protect the public health and safety arising out of the use of roller blades, roller skates, roller skis, and skateboards within the City of Hastings. The City Council finds there are certain public streets and public property wherein the operation and use of these devices create a potential danger to either the user of the devices or the general public.

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

ROLLER DEVICE. Any of the following devices:

(a) **ROLLER BLADES/ROLLER SKATES.** A wheeled device which is attached to a shoe or designed to be attached to a shoe and which is designed to transport a rider;

(b) **ROLLER SKIS.** A pair of skis, platformed with wheels attached and which is intended to simulate skiing; or

(c) **SKATEBOARDS.** A wheeled, non-motorized device which is not secured to the rider=s feet or shoes and which is designed to transport a rider.

(C) *Prohibited acts.*

(1) It shall be unlawful for any person to ride or propel themselves upon roller blades, roller skates, roller skis, or skateboards in any of the following areas of the City of Hastings:

(a) Any property or parking lot owned by the city, county, state, or federal governments;

(b) Any privately owned parking lot without the written permission of the owner;

(c) Any public tennis court;

(d) Any street where the posted speed limit is in excess of 30 mph, except Pleasant Drive between West 4th Street and County Road 42 and East 10th Street from Vermillion Street to the East city limits; or

(e) On any sidewalk adjacent to that part of 2nd Street lying between Eddy Street and Bailly Street.

(2) No roller device shall be operated on any street within the city while being pushed, pulled or in any way propelled by the following means: any motorized vehicle, a person on a bicycle, or an animal.

(3) Persons operating roller devices upon public streets shall not ride more than 2 abreast.

(4) All roller devices must be operated as close as practicable to the right-hand curb or edge of the street.

(5) No person, while operating a roller device on a public street, shall cause any object to be pushed, passed, or thrown between 2 or more operators of roller devices.

(6) No person shall operate a roller device in a manner likely to endanger themselves or any other person or property. (Prior Code, § 9.34) Penalty, see § 10.99

§ 130.05 INTERFERING WITH RELIGIOUS OBSERVANCE.

It is unlawful for any person, by threats or violence, intentionally to prevent another person from performing any lawful act enjoined upon him or her or recommended to him or her by the religion which he or she professes. (Prior Code, § 9.52) Penalty, see § 10.99

§ 130.06 FLAGS.

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

FLAG. Anything which is or purports to be the Stars and Stripes, the United States flag or shield, the United States coat of arms, the Minnesota State flag, or a copy, picture, or a representation of any of them.

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

- (1) Intentionally and publicly mutilate, defile, or cast contempt upon the flag;
- (2) Place on or attach to the flag any work, mark, design or advertisement not properly a part of the flag or expose to public view the flag so altered;
- (3) Manufacture or expose to public view an article of merchandise or a wrapper or receptacle from merchandise upon which the flag is depicted; or
- (4) Use the flag for commercial advertising purposes.

(C) *Exception.* This section shall not apply to flags depicted on written or printed documents or periodicals or on stationery, ornaments, pictures, or jewelry, provided there are not unauthorized words or designs on the flag and provided the flag is not connected with an advertisement. (Prior Code, § 9.53) Penalty, see § 10.99

§ 130.07 VAGRANCY.

It is unlawful for any person to be a vagrant, and for purposes of this section a vagrant shall be anyone of the following:

- (A) A person with ability to work, who is without lawful means of support, does not seek employment, and is over 18 years of age;
- (B) A person found in or loitering near any structure, vehicle, or private grounds who is there without the consent of the owner and is unable to account for his or her presence;
- (C) A prostitute who loiters on street or in a public place or in a place open to the public with intent to solicit for immoral purposes; or
- (D) A person who derives his or her support in whole or in part from begging or is a fortune teller or

similar imposter. (Prior Code,§ 9.54) Penalty, see § 10.99

§ 130.08 DISORDERLY HOUSE OR PLACE OF PUBLIC RESORT.

It is unlawful for any person to keep a disorderly house or place of public resort, whereby the peace, comfort, or decency of a neighborhood is habitually disturbed; or being the owner or in control of any premises, intentionally permit them to be so used. (Prior Code,§ 9.87) Penalty, see§ 10.99

§ 130.09 DESTRUCTIVE DEVICES.

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

DESTRUCTIVE DEVICE. Any bomb, time bomb, Molotov cocktail, grenade, mine, rocket or missile, and any type of weapon which will, or is designed to, or may readily be converted to, expel a projectile by the action of any explosive, except commercially manufactured firearms.

(B) It is unlawful for any person to manufacture, own, possess, or have in his or her custody or control any destructive device which shall include, but is not limited to, any device, apparatus or equipment by whatever name known, which causes damage by combustion or explosion.

(C) It is unlawful for any person to manufacture, own, possess, or have in his or her custody or control any false or hoax device, apparatus, or equipment described in this section, and place the same in any public building or place.

(D) This section shall not apply to owners, employees, or agents of bona fide business operations which store, transport, or use explosives in their operation, nor shall it apply to a government official acting in the discharge of his or her official duties, nor shall it apply to persons who have procured dynamite as set forth in M.S. ' 299F.19, as it may be amended from time to time, and other emergency regulations issued by the Governor of the State of Minnesota or the Minnesota Director of Public Safety. (Prior Code,§ 9.90) Penalty, see§ 10.99

§ 130.10 OPEN PITS, BASEMENTS, AND OTHER EXCAVATIONS.

(A) It is unlawful for any person owning or in control of real estate to have any pit, basement, well, septic tank, cesspool, or other excavation on the premises open and without protection for the public.

(B) If the excavation is open for 72 hours or less, it shall be protected by use of flares or lights at night and a railing or other temporary protection during the day.

(C) If it shall be permanently installed, it shall be protected with a chain link fence at least 48 inches high, night and day. (Prior Code,§ 9.92) Penalty, see§ 10.99

§ 130.11 PLACEMENT OF GARBAGE CONTAINERS BY ALLEYS OR CURBSIDES.

(A) In those areas of the city where alleys are platted and opened for traffic, garbage containers shall be placed at the rear of the property adjacent to the alley.

(B) Where no alley exists, garbage containers shall be placed at a point adjacent to the residence which is reasonably accessible to the front of the house. On pick-up day, containers may be placed at the front of the property line. If containers are placed at the front property line, they shall not be placed before 6:00 p.m. the night before collection day and must be removed by 6:00 p.m. on collection day. (Prior Code, § 9.93) Penalty, see § 10.99

§ 130.12 USE OF EXPLOSIVES WITHIN CITY LIMITS.

(A) All explosives shall be handled by a person experienced in the handling of explosives or by employees under his or her direct supervision who are at least 18 years old.

(B) While explosives are being handled or used, smoking shall not be permitted and no one near the explosives shall possess matches, open flames or other fire or flame producing devices. No person shall handle explosives while in the possession of or under the influence of intoxicating liquor or narcotics.

(C) Original containers or authorized containers shall be used for taking detonators and other explosives from storage magazines to the blasting area.

(D) When the blasting is to be done in a congested area or in close proximity to a structure, railway, highway, or other installation that may be damaged, before blasting the area to be blasted shall be covered with a mat capable of preventing fragments from being thrown from the blasting site.

(E) Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable safety precaution including, but not limited to, warning signals, flags, barricades or woven wire mats to insure the safety of the general public and workers in the blasting area.

(F) Immediately upon receiving the necessary permit as required by state law, the applicant shall notify by certified mail, all residents in the area which will be affected by the blasting. This notice shall inform those residents of the applicant's intention to conduct blasting within the area and if known to inform the residents of the approximate time and date the blasting is to be conducted. This notice must also contain a provision cautioning residents to remove all objects from the wall and other places where they could be damaged by blasting, as well as, advising residents to take appropriate action to document the condition of their structure and its content prior to blasting. No later than 3 days prior to the actual blasting, the applicant shall notify, in writing, all residents in the affected area of the exact day and time the blasting is to occur.

(G) All blasting permitted under this section shall be conducted during daylight hours except as may be specifically authorized by the city.

(H) Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph and steam utilities, the blaster shall notify the police department and appropriate representatives of the utilities at least 24 hours in advance of blasting, specifying the location and intended time of the blasting. Verbal notice shall be confirmed with written notice. In an emergency this time limit may be waived by the

local authority issuing the original permit.

(I) Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radar, radio transmitters, lightning, adjacent power lines, dust storms or other sources of extraneous electricity. These precautions shall include:

(1) The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electric storm;

(2) The posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet of the blasting operation; and

(3) Compliance with the latest recommendations of the Institute of Makers of Explosives with regard to blasting in the vicinity of radio transmitters and power lines.

(J) Prior to issuing any permit required by M.S. Chapter 299F, as it may be amended from time to time, the applicant shall provide to the Chief of Police a certificate of insurance for the minimum amounts of \$250,000 for bodily injury to a single person, \$500,000 for bodily injury to multiple persons and \$500,000 for any property damage. This certificate of insurance shall name the City of Hastings as an additional insured and further provide that the policy cannot be canceled without giving 10-days= prior written notice to the city.

(K) The provisions of these regulations shall be in addition to any requirements imposed by state law. (Prior Code, § 9.94) Penalty, see § 10.99

§ 130.13 ISSUANCE OF CITATIONS.

(A) Except as otherwise provided by statute, only a peace officer and part-time peace officer may:

(1) Ask a person receiving a citation to give a written promise to appear in court; or

(2) Take a person into custody as permitted by M.S. § 629.34, as it may be amended from time to time.

(B) The following city employees may issue citations in lieu of arrest or continued detention for violations of the City Code. Specific areas of jurisdiction for each employee shall be established by resolution of the City Council, which resolution may be amended from time to time by the City Council:

(1) Peace officers;

(2) Reserve peace officers;

(3) City Forester;

(4) Planning Director and Assistant City Planner;

(5) Department of Building Safety;

(6) Fire Chief and members of the Fire Protection Bureau;

- (7) Animal Control Officers; and
- (8) Public Works Superintendent. (Prior Code, § 9.95)

§ 130.14 VEHICLE SALES IN RESIDENTIAL DISTRICTS.

(A) It is unlawful for any person to sell more than 3 vehicles per any 12-month period from a legal parcel in a residentially zoned district where there is a principle structure.

(B) It is unlawful for any person to sell vehicles from any residential property where there is not a principal structure. (Prior Code, § 9.96) Penalty, see § 10.99

§ 130.15 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.

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.

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, roadways, alleys, vacant lots, parks, playgrounds, plazas, public recreation, entertainment or civic facilities, places of amusement, entertainment, or refreshments, public buildings, schools, and the common areas and parking facilities of hospitals, apartment houses, office buildings, transport facilities, malls, and shops.

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 12 years.* No minor under the age of 12 years shall be present in or upon any public place within the City between the hours of 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. the following day, or between the hours of 10:00 p.m. on any Friday or Saturday and 5:00 a.m. the following day, official City time.

(2) *Minors ages 12 years to 14 years.* No minor of the ages of 12 or 14 years shall be present in or upon any public place within the City between the hours of 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. the following day, or between the hours of 11:00 p.m. on any Friday or Saturday and 5:00 a.m. the following day official City time.

(3) *Minors ages 15 years to 17 years.* No minor of the ages of 15 or 17 years shall be present in or upon any public place within the City between the hours of 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. the following day, or between the hours of 12:01 p.m. and 5:00 a.m. on any Saturday or Sunday, 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; and

(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.

(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 (Ord. 2014-14, 3rd Series, passed 10-6-14)

§ 130.16 DRUG PARAPHERNALIA.

(A) *Purpose.* The purpose of this section is to regulate the possession, sale, manufacture, advertisement, and delivery of drug paraphernalia and thereby deter the use of controlled substances in the city. This section is not intended to allow what the Minnesota Statutes prohibit nor to prohibit what the Minnesota Statutes expressly allow.

(B) *Definitions.*

The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

DRUG PARAPHERNALIA. All equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of Minnesota Statutes or this section. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in a weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material such as a marijuana cigarette which has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine vials;
7. Chamber pipes;
8. Carburetor pipes;
9. Electric pipes;
10. Air-driven pipes;
11. Chillums;
12. Bongs;
13. Ice pipes or chillers.

(C) *Evidence.* In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner or anyone in control of the object under state or federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this section;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner or anyone in control of the object to deliver it to persons who he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section; the innocence of an owner or anyone in control of the object as to a direct violation of this Section should not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;

(14) Expert testimony concerning its use.

(D) *Offenses.*

(1) *Possession.* It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section.

(2) *Manufacture, sale or delivery.* It is unlawful for any person to sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section.

(3) *Minors.* Any person 18 years of age or over who violates division (D)(2) above by selling or delivering drug paraphernalia and said sale or delivery is to a person who is under 18 years of age and at least 3 years his or her junior shall also be violating this paragraph as well as division (D)(2).

(4) *Advertisement.* It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement knowing, or under circumstances where one reasonably should know, that the propose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(E) *Penalty.* Violation of any provision of this section shall be a misdemeanor and each day of violation shall be considered a separate offense.

(F) *Civil forfeiture.* All drug paraphernalia as defined in this section are subject to forfeiture, subject to the provisions set forth in Minnesota Statutes.

(G) *Severability.* If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are severable.

(H) *Violation a misdemeanor.* Every person violates a section, subdivision, paragraph or provision of this chapter when they perform an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor. (Ord. 550, 2nd Series, passed 5-1-2006)

§ 130.17 SEXUAL OFFENDERS AND SEXUAL PREDATORS

(A) Findings and Intent.

(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 public safety.

Current information indicates that such predatory offenders are likely to use physical violence and to repeat their offenses, and most predatory offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. The cost of predatory offender victimization to society at large, while not precisely calculable, is steep.

- (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 predatory offenders are prohibited from establishing temporary or permanent residences.

(B) Definitions.

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "Designated predatory offender" means any person who has been convicted of an offense identified in Minnesota Statutes Section 243.166, subd. 1b, or a similar offense under the laws of another state, requiring the offender to register with the Department of Corrections and who has been assigned a risk level of III (referred to as a Level III Predatory Offender) pursuant to Minnesota Statutes Section 244.052 or who otherwise is required to register with the Department of Corrections and has been assigned a risk level of III (referred to as a Level III Predatory Offender).
- (2) "Permanent residence" means a place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (3) "Temporary residence" means a place where a person abides, lodges, or resides for a period of fourteen (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 four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.
- (4) "School" means a public or nonpublic elementary, secondary school, high school or college.
- (5) "Licensed child care center" means an in-home or other child care center currently licensed by the State of Minnesota or Dakota County.
- (6) "Public Park" means an improved or unimproved public park, sporting facility or recreation area owned by the City, Dakota County, a school district or other governmental entity.

(C) Residence Prohibitions.

- (1) It shall be unlawful for any designated predatory offender to establish a permanent or temporary residence within seven hundred fifty (750) feet of any school, licensed child care center, or public park.
- (2) For purposes of determining the minimum distance separation required by this section, the requirement shall be measured by following a straight line from the outer property line of the property where the permanent or temporary residence of the designated predatory offender

is located to the nearest outer property line of the property on which the school, licensed child care center, or public park is located.

- (3) A designated predatory offender residing within a prohibited area as described in this Section 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 Minnesota Statutes Sections 243.166 and 243.167 or a successor statute prior to July 6, 2017;
 - (b) The person was a minor when he or she committed the offense and was convicted as an adult;
 - (c) The person is a minor;
 - (d) The school, licensed child care center, or public park within seven hundred fifty (750) feet of the person's permanent residence or temporary residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes, sections 243.166 and 243.167, or a successor statute;
 - (e) The residence is a property purchased, leased, or contracted with and licensed by the Minnesota Department of Corrections prior to July 6, 2017; or
 - (f) The residence is also the primary residence of the person's parents, grandparents, siblings, adult children, or spouse.

(D) Renting Real Property.

- (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 chapter, if such place, structure, or part thereof, trailer or conveyance, is located within a prohibited location zone described in §130.17(C) of this chapter.
- (2) A property owner's failure to comply with the provisions of this section shall constitute a violation of this section.
- (3) If a property owner discovers or is informed that a tenant is a designated predatory offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may terminate the lease and evict the offender.

(E) Penalty and Enforcement.

A violation of this Section shall be a misdemeanor. In addition, the City may enforce this Section by mandamus, injunction, and other appropriate remedy in any court of competent jurisdiction.

(G) Severability.

Should any section, subdivision, clause or other provision of this Section be held to be invalid by any

court of competent jurisdiction, such decision shall not affect the validity of this Section as a whole, or of any part thereof, other than the part held to be invalid. (Ord. No. 2017-03, passed on 6-19-17)

§ 130.98 VIOLATIONS.

Every person violates a section, subdivision, 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, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (Prior Code, § 9.99) Penalty, see § 10.99