

## **TITLE XIII: GENERAL OFFENSES**

### **Chapter**

- 130. GENERAL OFFENSES**
- 131. CURFEW; MINORS**
- 132. DANGEROUS WEAPONS AND ARTICLES**
- 133. SOCIAL HOST REGULATIONS**
- 134. DRUG LAB SITES**



## CHAPTER 130: GENERAL OFFENSES

### Section

- 130.01 Storage, deposit and disposal of refuse
- 130.02 Disorderly conduct generally
- 130.03 Noisy parties; disorderly conduct
- 130.04 Drug paraphernalia
- 130.05 Lurking, loitering and prowling

### § 130.01 STORAGE, DEPOSIT AND DISPOSAL OF REFUSE.

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

**COMMERCIAL ESTABLISHMENT.** Any premises where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches and schools where food is prepared or served.

**MULTIPLE DWELLING.** Any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities for each.

**REFUSE.** Includes all organic material resulting from the manufacture, preparation or serving of food or food products, and spoiled, decayed or waste foods from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags and discarded clothing, tree or lawn clippings, leaves, weeds and other waste products, except human waste or waste resulting from building construction or demolition.

**RESIDENTIAL DWELLING.** Any single building consisting of one through four dwelling units with individual kitchen facilities for each.

(B) *Storage.*

(1) It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All the storage shall be in five- to 30-gallon metal or plastic containers with tight-fitting covers, which shall be maintained in a clean and sanitary condition; provided, that tree leaves, weeds and grass clippings may be stored in plastic bags and tree limbs must be stored in bundles weighing no more than 75 pounds and no longer than four feet.

(2) It is unlawful for any person to store refuse on multiple dwelling premises for more than one week. The storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.

(3) It is unlawful for any person to store refuse on commercial establishment premises for more than 48 hours. The storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.

(4) It is unlawful to store organic refuse unless it is drained and wrapped.

(C) *Deposit.* It is unlawful for any person to deposit refuse from any source, rubbish, offal or the body of a dead animal, in any place other than a sanitary landfill.

(D) *Fire danger.* It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point where it could cause danger of fire in other refuse.  
(2003 Code, § 8.01) Penalty, see § 10.99

**§ 130.02 DISORDERLY CONDUCT GENERALLY.**

(A) 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:

(1) Engage in brawling or fighting;

(2) Disturb an assembly or meeting, not unlawful in its character;

(3) Engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others;

(4) Willfully and lewdly expose his or her person or the private parts thereof, or procure another to so expose himself or herself; and any open or gross lewdness or lascivious behavior, or any act of public indecency;



(5) Whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when the waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter the waters 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;

(6) Urinate or defecate in a place other than:

(a) If on public property then in a plumbing fixture provided for that purpose;

(b) If on the private property of another then in a plumbing fixture provided for that purpose; or

(c) If on private property not owned or controlled by another, then within a building.

(7) Cause 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;

(8) Use a sound amplifier upon streets and public property without prior written permission from the city;

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

(10) Cause defacement, destruction or otherwise damage to any premises or any property located thereon;

(11) Strew, scatter, litter, throw, dispose of or deposit any refuse, garbage or rubbish onto any premises except into receptacles provided for that purpose;

(12) Enter any motor vehicle of another without the consent of the owner or operator; or

(13) Fail or refuse 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

(B) 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.

(2003 Code, § 8.41) Penalty, see § 10.99

**§ 130.03 NOISY PARTIES; DISORDERLY CONDUCT.**

(A) It is unlawful for any person or persons to congregate on any private lands because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet or repose of other persons. Any owner or person in lawful possession or control of the private lands who has knowledge of the disturbance and fails to immediately abate the disturbance shall be guilty of a violation of this section.

(B) It is unlawful for any person or persons to congregate on any private lands of another because of, or participate in, any party or gathering of people in the absence of the owner of the private lands being present, without first having obtained written permission from the landowner or other person in lawful possession of the private lands. The written permission shall at all times be in the possession of one or more persons at the site of the congregation. The document containing the written permission must bear the signature of the landowner and date of the permitted use. Failure to display written permission upon request shall be considered prima facie evidence of an absence of permission from the owner.

(C) A violation of divisions (A) or (B) above shall give a peace officer the authority to order all persons present, other than persons identifying themselves as the owner or person in lawful possession or control of the land, to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a peace officer shall be guilty of a violation of this section.  
(2003 Code, § 8.42) Penalty, see § 10.99

**§ 130.04 DRUG PARAPHERNALIA.**

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

(1) **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 M.S. Chapter 152, as it may be amended from time to time. 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 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 injecting 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, that 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; and
13. Ice pipes or chillers.

(2) *Other terms.* Other terms are as defined in M.S. § 152.01, as it may be amended from time to time.

(3) *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:

- (a) Statements by an owner or by anyone in control of the object concerning its use;
- (b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
- (c) The proximity of the object, in time and space, to a direct violation of this section;
- (d) The proximity of the object to controlled substances;
- (e) The existence of any residue of controlled substances on the object;
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of M.S. Chapter 152, as it may be amended from time to time; the innocence of an owner, or of anyone in control of the object, as to a direct violation of M.S. Chapter 152, as it may be amended from time to time, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;
- (i) National and local advertising concerning its use;

(j) The manner in which the object is displayed for sale;

(k) 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;

(l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(m) The existence and scope of legitimate uses for the object in the community; and

(n) Expert testimony concerning its use.

(B) *Prohibitions.*

(1) *Possession of drug paraphernalia.* 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 M.S. Chapter 152, as it may be amended from time to time.

(2) *Manufacture or delivery of drug paraphernalia.* It is unlawful for any person to 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 M.S. Chapter 152, as it may be amended from time to time.

(3) *Delivery of drug paraphernalia to a minor.* Any person 18 years of age or over who violates division (B)(2) above, by delivering drug paraphernalia to a person under 18 years of age who is at least three years his or her junior is guilty of a special offense.

(4) *Advertisement of drug paraphernalia.* 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 purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(C) *Civil forfeiture.* All drug paraphernalia as defined by division (A) above is subject to forfeiture, subject to the provisions set forth in M.S. § 609.531, as they may be amended from time to time, in the same manner as if the forfeiture were pursuant to M.S. Chapter 152, as it may be amended from time to time.

(2003 Code, § 8.60) Penalty, see § 10.99

**§ 130.05 LURKING, LOITERING AND PROWLING.**

(A) *Loitering; circumstances cause alarm.*

(1) *Prohibition.* It is unlawful for any person to lurk, loiter or prowl in any place, in any time or in any manner not usual by law-abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity.

(2) *Circumstances causing alarm.* Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a police officer, refuses to identify himself or herself or endeavors to conceal himself or herself or an object.

(3) *Authority to detain.* A police office may stop and briefly detain a person suspected of violating division (A)(1) above, if the person's behavior reasonably causes suspicion of criminal activity. The officer's reasonable suspicion must be based on objective, articulable facts and reasonable inferences drawn from all the circumstances surrounding the person's behavior.

(4) *Opportunity to dispel alarm.*

(a) Unless flight by the person or other circumstances make it impracticable, a police officer shall, prior to any arrest for a violation of division (A)(1) above, allow the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him or her to identify himself or herself and explain his or her presence and conduct.

(b) An explanation of the person's presence and conduct shall be sufficient to dispel alarm if it shows that the person was engaging in, and planning to continue engaging in, lawful activity consistent with his or her actions and all the circumstances surrounding his or her behavior.

(c) The person may identify himself or herself by presenting any of the following:

1. A state-issued identification card or driver's license containing the person's photograph;
2. An employer-issued identification card which verifies the person's employment and includes the person's photograph;
3. A currently valid passport;
4. A certified copy of the person's birth certificate; and/or
5. Verification of the person's identity by another person who can establish his/her own identity by one of the documents listed above.

(5) *Requisites for conviction.* A person shall not be convicted of violating division (A)(1) above, if:

(a) No police officer gave the person the opportunity provided in division (A)(1) above, to dispel the alarm created by his or her actions; or

(b) The finder of fact determines that the police officer should have accepted the person's explanation as sufficient to dispel alarm.

(B) *Loitering; intent to commit crime.* It is unlawful for any person, in any public or private place, to lurk, loiter, prowl, lie in wait or be concealed with intent to commit any act prohibited by law.

(C) *Loitering; obstructing public passage.* It is unlawful for any person to loiter, stand, sit or lie in or upon any public property, private sidewalk, street, curb, crosswalk, walk-way area, parking lot, mall, steps, window sill, wall, bench, fence or other portion of private property open for public use, so as to unreasonably block, obstruct, partially obstruct or block or hinder free passage of the public. It is also unlawful for any person to block, obstruct, partially obstruct or hinder free access to the entrance of any building or part of a building open to the public without consent of the owner or occupant. No person shall be arrested or convicted under this provision until after a police officer has informed the person that his or her action violates this section and has asked the person to move to a location, if one is available, which would not violate this section.

(D) *Loitering; signs prohibiting.* It is unlawful for any person to loiter, stand, sit or lie in an area where a sign prohibiting loitering has been posted.  
(2003 Code, § 8.61) (Ord. 45, passed 12-23-1994) Penalty, see § 10.99





## CHAPTER 131: CURFEW; MINORS

### Section

131.01 Curfew for minors

131.99 Penalty

### § 131.01 CURFEW FOR MINORS.

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

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

(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, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, 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; 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 one 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) A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.  
Penalty, see § 131.99

#### § 131.99 PENALTY.

(A) *Minors.* Any minor found to be in violation of § 131.01 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260C.193 and 260C.201, as they may be amended from time to time.

(B) *Adults.* Any adult person found to be in violation of § 131.01 shall be guilty of a misdemeanor.



## CHAPTER 132: DANGEROUS WEAPONS AND ARTICLES

### Section

- 132.01 Acts prohibited
- 132.02 Exception
- 132.03 Discharge of firearms and explosives
- 132.04 Exception
- 132.05 Possession and sale of fireworks
- 132.06 Exposure of unused container
- 132.07 Use of bow and arrow

### § 132.01 ACTS PROHIBITED.

It is unlawful for any person to:

(A) Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another;

(B) Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another;

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

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

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

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

(G) Permit, as a parent or guardian, any child under 14 years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive;

(H) 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; or

(I) Possess, sell, transfer or have in possession for sale or transfer, any weapon commonly known as a throwing star, nun chuck or sharp stud. For the purposes of this division (I): a **THROWING STAR** means a circular metallic device with any number of points projecting from the edge; a **NUN CHUCK** means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod; and a **SHARP STUD** means a circular piece of metal attached to a wrist band, glove, belt or other material which protrudes one-fourth inch, or more, from the material to which it is attached, and with the protruding portion pyramidal in shape, sharp or pointed.  
(2003 Code, § 8.04-1) Penalty, see § 10.99

#### § 132.02 EXCEPTION.

Nothing in § 132.01 shall prohibit the possession of the articles therein mentioned if the purpose of the possession is for public exhibition by museums or collectors of art.  
(2003 Code, § 8.04-2)

#### § 132.03 DISCHARGE OF FIREARMS AND EXPLOSIVES.

It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, firecracker, skyrocket or other fireworks, air gun, air rifle or other similar device commonly referred to as a B-B gun.  
(2003 Code, § 8.04-3) Penalty, see § 10.99

#### § 132.04 EXCEPTION.

Nothing in § 132.03 shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of his or her duty, or to a person in the lawful defense of his or her person or family. This chapter shall not apply to the discharge of firearms in a range authorized in writing by the Council.  
(2003 Code, § 8.04-4)

#### § 132.05 POSSESSION AND SALE OF FIREWORKS.

It is unlawful for any person to sell, possess or have in possession for the purpose of sale, except as allowed in § 132.04, any firecrackers, sky rockets or other fireworks.  
(2003 Code, § 8.04-5) Penalty, see § 10.99

**§ 132.06 EXPOSURE OF UNUSED CONTAINER.**

It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges or latches.

(2003 Code, § 8.04-6) Penalty, see § 10.99

**§ 132.07 USE OF BOW AND ARROW.**

It is unlawful for any person to shoot a bow and arrow except in the physical education program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

(2003 Code, § 8.04-7) Penalty, see § 10.99





## CHAPTER 133: SOCIAL HOST REGULATIONS

### Section

- 133.01 Title and authority
- 133.02 Purpose and findings
- 133.03 Definitions
- 133.04 Prohibited acts
- 133.05 Exceptions
- 133.06 Enforcement
- 133.07 Violation

### § 133.01 TITLE AND AUTHORITY.

The City Council desires to protect the health, safety and welfare of all persons living in and visiting the city. The use of alcohol by persons under the age of 21 is prohibited by state statute. This chapter prohibits and establishes penalties for any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under 21 years of age. This chapter is enacted pursuant to M.S. § 340A.90, as it may be amended from time to time.  
(Ord. 159, passed 6-20-2011)

### § 133.02 PURPOSE AND FINDINGS.

(A) The City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol.

(B) The City Council finds that:

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement;

(2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions;

(3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it, as well as those who are affected by the actions of an irresponsible user;

(4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents; however, there are times when the parent(s) is/are present and condone the activity, and in some circumstances provide the alcohol;

(5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove and an ordinance is necessary to help further combat underage consumption; and

(6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.  
(Ord. 159, passed 6-20-2011)

### § 133.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALCOHOL.** Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits, including dilutions and mixtures thereof from whatever source or by whatever process produced.

**ALCOHOLIC BEVERAGE.** Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

**EVENT or GATHERING.** Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

**HOST.** To aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event, whether that host is present or not.

**PARENT.** Any person having legal custody of a juvenile:

- (1) As natural, adoptive parent or step-parent;
- (2) As a legal guardian; or

(3) As a person to whom legal custody has been given by order of the court.

**PERSON.** Any individual, partnership, copartnership, corporation or any association of one or more individuals.

**RESIDENCE or PREMISES.** Any home, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, or any other place of assembly, public or private, whether occupied as a dwelling or for any social function, and whether owned, leased or rented.

**UNDERAGE PERSON.** Any individual under 21 years of age.  
(Ord. 159, passed 6-20-2011)

#### § 133.04 PROHIBITED ACTS.

(A) It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property; where alcoholic beverages are present; when the person knows or reasonably should know that an underage person will or does: consume any alcohol or alcoholic beverage; or possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(B) A person is criminally responsible for violating this section, if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.  
(Ord. 159, passed 6-20-2011) Penalty, see § 10.99

#### § 133.05 EXCEPTIONS.

(A) This chapter does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(B) This chapter does not apply to legally protected religious observances.

(C) This chapter does not apply to retail intoxicating liquor or 3.2% malt liquor licensees, municipal liquor stores or bottle club permit holders who are regulated by M.S. § 340A.503(1)(a)(1), as it may be amended from time to time.

(D) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.  
(Ord. 159, passed 6-20-2011)

**§ 133.06 ENFORCEMENT.**

This chapter can be enforced by any police officer or other duly authorized law enforcement officer.  
(Ord. 159, passed 6-20-2011)

**§ 133.07 VIOLATION.**

Violation of § 133.04 is a misdemeanor.  
(Ord. 159, passed 6-20-2011)

## **CHAPTER 134: DRUG LAB SITES**

### **Section**

- 134.01 Title and statutory authority
- 134.02 Purpose
- 134.03 Jurisdiction
- 134.04 Interpretation and application
- 134.05 Disclaimer of liability
- 134.06 Fees
- 134.07 Definitions
- 134.08 Administration
- 134.09 Exceptions

### **§ 134.01 TITLE AND STATUTORY AUTHORITY.**

(A) This chapter shall be known and referenced as the “Cleanup of Clandestine Drug Lab Sites Ordinance”.

(B) This chapter is enacted pursuant to the powers specified in M.S. § 145A.10, as it may be amended from time to time.  
(Ord. 123, passed 10-18-2004)

### **§ 134.02 PURPOSE.**

(A) Professional reports, based on assessments, testing and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate and contaminate on the land, surfaces, furnishings and equipment in or near structures where clandestine drug labs are located.

(B) These conditions present health and safety risks to occupants and visitors of the structures and land through fire, explosion and skin and respiratory exposure to chemicals.

(C) This chapter establishes responsibilities and guidelines for involved parties to assure that:

(1) People are not unnecessarily exposed to the dangers of these contaminated structures or land; and

(2) Proper steps are taken to remove contaminants and assure appropriate tests are completed to verify that affected structures and land are sufficiently cleaned for human contact.

(D) This chapter assists and guides appropriate public authorities, property owners and occupants to prevent injury and illness to members of the public, particularly children.

(E) This chapter is intended to reduce exposure to chemicals used at clandestine drug lab operations in structures, including dwellings, buildings, motor vehicles, trailers, appliances or the land where they are located.

(F) This chapter is intended to minimize the cost to the city for clean up of clandestine drug lab sites.  
(Ord. 123, passed 10-18-2004)

#### **§ 134.03 JURISDICTION.**

(A) This chapter shall apply to all land within the boundaries of the city.

(B) Where either Chippewa County or Yellow Medicine County has lawfully passed an ordinance to regulate and enforce the cleanup of clandestine drug labs that is more restrictive, the city shall coordinate regulation and enforcement with the applicable county.  
(Ord. 123, passed 10-18-2004)

#### **§ 134.04 INTERPRETATION AND APPLICATION.**

(A) The provisions of this chapter shall be interpreted and applied as the minimum requirements necessary to protect public health, safety and welfare.

(B) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall apply.  
(Ord. 123, passed 10-18-2004)

#### **§ 134.05 DISCLAIMER OF LIABILITY.**

Liability on the part of, or a cause of action against, the city, or any employee or agent thereof, for any damages that may result from reliance on this chapter shall be eliminated or limited as provided by M.S. § 466.02, as it may be amended from time to time.  
(Ord. 123, passed 10-18-2004)

**§ 134.06 FEES.**

Fees for the administration of this chapter may be established and amended periodically by resolution of the City Council.  
(Ord. 123, passed 10-18-2004)

**§ 134.07 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CHEMICAL INVESTIGATION SITE.** A clandestine drug lab site that is under notice and order for cleanup and/or remediation as a public health nuisance, as authorized by M.S. Chapter 145A, as it may be amended from time to time, and this or other applicable city ordinance.

**CHILD.** Any person less than 18 years of age.

**CLANDESTINE DRUG LAB OPERATION.** The unlawful manufacture or attempt to manufacture a controlled substance within any area of a structure, such as a dwelling, building, motor vehicle, trailer, boat or other structure or appliance.

**CLANDESTINE DRUG LAB SITE.** Any parts of a structure, such as a dwelling, building, motor vehicle, trailer or appliance, occupied or affected by conditions and/or chemicals, typically associated with a clandestine drug lab operation.

**CLEANUP.** Proper removal and/or containment of substances hazardous to humans and/or the environment at a chemical investigation site. **CLEANUP** is a part of remediation.

**CONTROLLED SUBSTANCE.** A drug, substance or immediate precursor in M.S. § 152.02, Schedules I through V, as they may be amended from time to time. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

**OWNER.** Any person, firm or corporation who owns, in whole or in part, the land and/or structures, such as buildings, motor vehicle, trailer, boat or other appliance, at a clandestine drug lab site.

**PUBLIC HEALTH AUTHORITY.** The Public Health Director and the Deputy Public Health Director, or their designees, or other designated individuals or agents who are authorized to act as agents of the City Council members in their role as the Community Health Board, pursuant to the Local Public Health Act, M.S. §§ 145A.09 to 145A.12, as they may be amended from time to time (hereinafter designated as "Public Health").

**PUBLIC HEALTH NUISANCE.** Has the meaning attributed to it in M.S. § 145A.02(17), as it may be amended from time to time.

**REMEDATION.** Methods, such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition and/or removal of contaminated materials from a chemical investigation site.

**STRUCTURE.** A dwelling, building, motor vehicle, trailer, boat, appliance or any other/area or location, either fixed or temporary.  
(Ord. 123, passed 10-18-2004)

#### § 134.08 ADMINISTRATION.

(A) *Declaration of site as a chemical investigation site public health nuisance.* Clandestine drug lab sites, as defined herein, are declared by this chapter to be “chemical investigation site public health nuisances”.

(B) *Medical guidelines for assessing health status of exposed persons.* Medical guidelines for assessing the health status and determining medical care needs of persons, particularly children, that are found or known to be occupants or frequent visitors at a clandestine drug lab site, may be established and updated as necessary by such “medical consultants” who provide consultation services under contract, or otherwise, to the city.

(C) *Law enforcement notice to affected public, public health and child protection authorities.*

(1) Law enforcement authorities who identify a clandestine drug lab site, or clandestine drug lab operation, shall notify the appropriate governmental departments or agencies responsible for public health and child protection within one working day of identifying the lab site.

(a) The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

(b) The notice shall include sufficient information to inform the recipients of the following:

1. Property location by street address and other identifiable location;
2. Property owner's and occupant's identities, especially the identities of any children and women of child-bearing age found or known to be associated with the site;
3. Chemicals found and indications of chemical residues;
4. Presumed duration of the lab;



5. Equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and

6. Conditions typically associated with a clandestine drug lab site or operation, including weapons, illicit drugs, filth, fire or electrical shock and other harmful conditions as determined by state law.

(2) Upon identification of the clandestine drug lab site or operation, law enforcement agencies may treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with State Department of Health, State Pollution Control and local county, city and other applicable rules and regulations, including, but not limited to, such ordinances as may hereafter be adopted providing for Hazardous Waste Management Regulation.

(3) When a law enforcement agency completes its work under division (C)(2) above, and is prepared to leave those sites, the agency shall affix a warning sign to the entrance of the affected part of the structure. The warning sign shall be those that have been prepared in advance for the situations through the collaboration of city and county law enforcement, public health and city officials, as applicable. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants that the site is a chemical investigation site public health nuisance, may be dangerous to enter and must not be entered, except by authorization of the Public Health Authority and/or law enforcement agency identified on the sign.

*(D) Notice of chemical investigation site public health nuisance to owner and occupant.*

(1) After the Public Health Authority receives notice from a law enforcement agency that they've identified a clandestine drug lab site and posted the appropriate Chemical Investigation Site Public Health Nuisance warning sign, the Public Health Authority shall serve the known lawful occupants and owners of the site pursuant to M.S. § 145A.04(8)(b), as it may be amended from time to time, with notice of their responsibilities relative to the chemical investigation site public health nuisance.

(2) The public health authority shall notify and order the property owner of record and known occupant or agent to have the public health nuisance removed or abated within ten days as provided in M.S. § 145A.04, as it may be amended from time to time, and this chapter. Public Health notice and order shall include the following:

(a) A replica of the Chemical Investigation Site Public Health Nuisance declaration that is posted at the site's entrance(s);

(b) Information about the potentially hazardous condition of the chemical investigation site;

(c) A summary of the property owner's and occupant's responsibilities under this chapter;  
and

(d) Information on locating professional services necessary to remove and abate the chemical investigation site public health nuisance status as provided in this chapter and M.S. § 145A.04, as it may be amended from time to time.

(3) The public health authority shall endeavor to provide information in writing about the Chemical Investigation Site Public Health Nuisance declaration and potential hazard(s) to the following additional concerned parties:

(a) Neighbors within close proximity that can be reasonably affected by the conditions found;

(b) The City Clerk;

(c) Local and immediate area law enforcement (police and sheriff offices); and

(d) Other state and local authorities, such as the State Pollution Control Agency and State Department of Health, that may have public and environmental protection responsibilities at the site.

(E) *Notice filed with property record and/or motor vehicle record.*

(1) If, after ten days' notice and order, Public Health is unable to obtain any reasonable assurance or plan from the property owner or occupant that the structure is being properly vacated, cleaned, remediated and tested, Public Health may provide a copy of the Chemical Investigation Site Public Health Nuisance notice and order to the County Recorder and to the lien and mortgage holders of the affected structure and/or properties. The County Recorder is authorized to file that information with the property record, to notify other persons with interest in the property about the property's chemical investigation site public health nuisance status.

(2) When the affected property is a motor vehicle, boat or trailer, Public Health shall notify the appropriate state and local agency that maintains motor vehicle, boat or trailer records, and the holders of liens or security interests against the vehicle or trailer.

(F) *Property owner's and occupant's responsibility to act.*

(1) Property owner(s) and occupant(s) provided with a notice, which also includes the posted warning sign informing them about the chemical investigation site public health nuisance, shall promptly act to vacate occupants from those parts of a structure that are a chemical investigation site public health nuisance. This includes dwellings, buildings, motor vehicles, trailers, boats, appliances or any other affected area or location.

(2) Within ten business days of receiving the Public Health notice and order to cleanup the Chemical Investigation Site Public Health Nuisance, the property owner(s) and/or occupant(s) shall take the following actions:

(a) Notify the City Public Health Authority or its designated agents that the affected parts of the dwellings, buildings and/or motor vehicles have been and will remain vacated and secured until the Public Health Authority provides notice that the public health nuisance no longer exists;

(b) Contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures and personnel, as determined by the State and/or City Departments of Health), or other designees, to accomplish the following:

1. A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;

2. Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;

3. A complete clean-up of the site (including, but not limited to, the clean-up or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete clean-up of the demolished site;

4. A complete clean-up or disposal at an approved dump site, of all personal property in the site;

5. A complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site; and

6. Remediation testing and follow-up testing to determine that all health risks are sufficiently reduced, according to State Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein.

(c) Provide City Public Health Authority with the identity of the testing and cleaning firm the owner or occupant has contracted with for remediation of the structure(s) as described above;

(d) Provide the City Public Health Authority with the contractor's plan and schedule for remediation that will abate the chemical investigation site public health nuisance declaration; and

(e) The property owner or occupant may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure. The owner or occupant must show good cause for any such extension. Any such extension shall be dependant on the owner's assurance that the affected parts of the structure will not be occupied pending appropriate cleanup or demolition.

(G) *Property owner's responsibility for costs and opportunity for recovery.*

(1) Consistent with M.S. Chapter 145A, as it may be amended from time to time, the property owner shall be responsible for: private contractor's fees, cleanup, remediation and testing of chemical investigation site public health nuisance conditions; and city fees and costs of administering notices and enforcing, vacating, cleanup, remediation and testing of affected parts of the property.

(2) Nothing in this chapter is intended to limit the property owners, agents, occupants or the city's right to recover costs or damages, from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.

(3) The city's administrative and enforcement services, referenced in division (G)(1) above, include, but are not limited to, the following:

- (a) Posting warning notices or signs at the site;
- (b) Notification of affected parties;
- (c) Securing the site, providing limited access to the site and prosecution of unauthorized persons found at the site;
- (d) Expenses related to the recovery of costs, including the assessment process;
- (e) Laboratory fees;
- (f) Clean-up services;
- (g) Administrative fees; and
- (h) Other associated costs.

(H) *Special assessment to recover public costs.*

(1) The city is authorized under M.S. § 145A.04(8)(c), as it may be amended from time to time, to proceed within ten business days of service of a notice for abatement or removal of the Public Health Nuisance to initiate the assessment and cleanup when: the property owner is not located; or the Public Health Authority determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and cleanup that is acceptable to the designated Public Health Authority.

(2) The City Council (or its formally identified designee) shall be fully authorized to act, consistent with state law, on behalf of the city to direct funds to assure prompt remediation of chemical investigation sites.

(3) When the estimated cost of testing, cleanup and remediation exceeds seventy-five percent of the county assessor's market value of the structure and land, the City Council (or its formally identified designee) is authorized to notify the property owner of the city's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.

(4) The property owner shall be responsible for all costs, including those of the city, incurred to abate the public health nuisance, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up. The city's costs may also include, but shall not be limited to, those set forth in division (G)(3) above. Fees and costs specified above that are not paid for in any other way may be collected through a special assessment on the property as allowed by M.S. § 145A.08, as it may be amended from time to time, or by any other applicable federal, state and local laws, ordinances and/or applicable City Council resolution(s).

(5) Payment on the special assessment, shall be at the annual rate of at least \$1,000 or more as needed to assure full payment to the city within ten years. This amount shall be collected at the time real estate taxes are due. The amount due and/or payment rate may be adjusted by action of the City Council.

(6) The city may also seek recovery of costs through other methods allowed by federal or state law.

(I) *Authority to modify or remove declaration of chemical investigation site public health nuisance.*

(1) The designated Public Health Authority may modify conditions of the declaration and order removal of the declaration of Chemical Investigation Site Public Health Nuisance.

(2) The modification or removal shall occur only after the Public Health Authority has determined that levels of contamination are sufficiently reduced through remediation to warrant modification or removal of the declaration. The Public Health Authority may rely on information from competent sources, including those supplied by the property owner and/or others, such as state and local health, safety, law enforcement and pollution control authorities to reach those decisions.

(3) When the declaration is modified or removed, the Public Health Authority shall forward that information to the County Recorder for addition to the property record if notice of the nuisance declaration was previously filed with the Recorder as described above. Similarly, notice shall be provided to the motor vehicle or other license records agencies and lien holders if a notice had previously been provided to them.

(J) *Waste generated from cleaning up a clandestine drug lab.* Waste generated from chemical investigation site public health nuisances shall be treated, stored, transported and disposed in accordance with applicable State Department of Health, State Pollution Control Agency and city, and all other applicable rules and regulations for solid waste and for hazardous household and other hazardous wastes. (Ord. 123, passed 10-18-2004)

**§ 134.09 EXCEPTIONS.**

Administration of this chapter, including guidance for, challenges to and penalties, shall be according to the authorities provided in M.S. Chapter 145A, as it may be amended from time to time, other applicable state law, ordinances and all other applicable rules and regulations.  
(Ord. 123, passed 10-18-2004)