

CHAPTER 130: GENERAL OFFENSES

Section

General Provisions

- 130.01 Damage to property; graffiti
- 130.02 Discharging firearms
- 130.03 Curfew for minors
- 130.04 Fireworks

- 130.99 Penalty

GENERAL PROVISIONS

§ 130.01 DAMAGE TO PROPERTY; GRAFFITI.

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

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, **GRAFFITI** shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discoloring of any sidewalk, street, or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that **OWNER** shall not include the city.

(B) *Conduct prohibited.*

(1) It is unlawful for any person to inscribe, draw, or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.

(2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.

(3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided, that minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) *Removal by owner.*

(1) *Owner's responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

(3) *List of contractors and cleaning materials.* The city may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the city does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the city expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising therefrom.

(D) *Removal by the city.*

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

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

(E) *Penalty.*

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

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

(F) *Compliance by the city.*

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

(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or

Revised

AN ORDINANCE REGULATING THE CARRYING OR DISCHARGING OF
FIREARMS IN THE CITY OF HENNING

The City Council of the City of Henning does hereby ordain:

130.02 Discharging Firearms

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

(1) "Bodily Harm" means physical pain or injury, illness or any impairment of physical condition.

(2) "Bows and arrows" or "bow and arrow" means any device or combination of devices designed to propel any arrow from a cord connecting the two ends of a bow by pulling on the cord, thus bending the bow and then releasing the cord; except it shall not mean devices of this type commonly interpreted to be toys.

(3) "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing bodily harm, or any other device or instrument which, in the manner it is used or intended to be used, is calculated or likely to produce bodily harm.

(4) "Firearm" means any device from which is propelled any missile, projectile, bullet or other mass through a barrel by means of explosives, gas, air and/or spring devices, except that any device that discharges blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use as a bird or animal repelling device shall not be considered a "firearm" for purposes of this ordinance.

(B) *Prohibited Activity.*

(1) It shall be unlawful to do the following:

(A) Recklessly handle or use a firearm, bow and arrow, dangerous weapon or explosive so as to endanger the safety of another;

(B) Intentionally point a firearm of any kind, whether loaded or unloaded, at or toward another;

(C) Possess any device or weapon known as a slingshot, sand club, metal knuckles, switchblade knife, dagger, stiletto, dirk, blackjack, chain club, pipe club, Molotov cocktail, grenade, throwing star or similar device;

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

(E) Sell or have in possession any device designed to silence or muffle the discharge of a firearm.

B.) Division (A.) above shall not apply to the articles mentioned when they are carried or possessed as curiosities for their historical significance or value.

(C) *Discharge and Uses Prohibited.*

A. Except in accordance with this ordinance, it shall be unlawful to discharge or use any firearm or bow and arrow within the corporate boundaries of the city.

B. Bows and arrows may be used on private property, or on school or city property in connection with an organized school or recreational class provided that the arrows used shall be equipped with blunt tips (also known as "field points" or target arrows")

C. Certain firearms, limited to shotguns, muzzle loaders, bow and arrow and cross bow may be discharged in the following locations within the City (hereinafter called "Permitted Discharge Areas");

1. On any approved firearms range or other location approved by the City Council for a special hunting program operating under a permit issued by the City Council.

2. Within any county or regional park while participating under a permit or license in a special hunting program established by the county board.

3. In any unplatted area approved by the City Council in accordance with the procedure described in sub-paragraph 4 of this section and identified by green cross-hatching on the map which is attached hereto and made a part hereof as if fully set out herein.

4. The City Council shall designate Permitted Discharge Areas by resolution after considering: (a) the proximity of the proposed area to adjacent areas zoned or used for residential or commercial purposes; (b) the proximity of the proposed area to schools, churches, parks and other places where people congregate; (c) the effect of both noise of a discharge and the danger which a discharged projectile may pose to persons living, traveling, or legally present in or in proximity to the proposed area.

5. Any Property Owner may petition to have his or her property included in, or excluded from the Permitted Discharge Area based upon the criteria described in sub-paragraph 4 of this section.

D.) Except for discharge, this section intends neither to further restrict nor to permit what is restricted in M.S. §624.711 through 624.7181.

E. Under the conditions for discharge allowed in this section, it shall be unlawful for any person to be under the influence of alcohol, narcotics or any other drug when discharging a firearm or bow and arrow.

F. Nothing in this section shall be construed to include any discharge of any firearms or bow and arrow when done in the lawful defense of person, family, property or within the basement of a private residence.

G. Nothing in this section shall be construed to include any discharge of any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition when used for construction purposes.

SECTION 4: *Transportation. Requirements.*

A. It shall be unlawful to transport any firearm in a motor vehicle, airplane, snowmobile or boat unless the same is unloaded in both barrels and magazine and completely contained in a gun case expressly made for that purpose which is fully enclosed by being zipped, snapped, buckled, tied or otherwise fastened, with no portion of the firearm exposed, or unless unloaded and contained in the trunk of a car with the trunk door closed, except that pistols and revolvers may be transported when done in accordance with M.S. §§ 624.711 through 624.717.

B. It shall be unlawful to transport the following in a motor vehicle, airplane, snowmobile or boat:

1. A bow and arrow unless unstrung, completely contained in a case or unless contained in the trunk of a car with the trunk door closed; or
2. A muzzle loading firearm unless fully unloaded and completely contained in a gun case expressly made for that purpose which is fully enclosed by being zipped, snapped, buckled, tied or otherwise fastened with no portion of the firearm exposed, or unless unloaded and contained in the trunk of a car with the trunk door closed. A muzzle loading firearm with a flintlock ignition is fully unloaded if it has no priming powder in any pan and muzzle loading firearm with percussion ignition is fully unloaded if it has no percussion cap on any nipple.

SECTION 5: *Possession by Minors.*

A.) Except in accordance with this section, it shall be unlawful for any person under the age of 16 years, unless accompanied by a parent or guardian, to have in his or her possession or under his or her control, any firearm for any purpose. For the purposes of this section, the word "guardian" is defined as legal guardian or any other person over the age of 18 years who has been selected by the parent or legal guardian to supervise the

person under the age of 16 years while he or she has in his or her possession or under his or control any firearm.

B. This section shall not apply to any person between the ages of 14 years or 16 years who has the certificate provided for in M.S. §97.81, or to any person participating in the course provided by the section to carry a properly encased and unloaded firearm to and from class and to handle the same during the instruction. Also, the person shall be allowed participation in organized target shooting programs conducted under qualified adult supervision.

C. It shall be unlawful for a parent or guardian to permit a child under 14 years of age to handle or use outside of the parent's or guardian's presence, any firearm, any ammunition or any explosive.

D. It shall be unlawful for any person to furnish a minor under 18 years of age with any firearm, any ammunition, or any explosive without the written consent of the minor's parent or guardian.

SECTION 6: *Exception.* This Ordinance does not apply to law enforcement officers and members of the armed services of either the United States or the state for use in the course of their duties.

SECTION 7: *Penalty.* Any person who violates any provision of this chapter shall be guilty of a gross misdemeanor or a felony.

SECTION 8: *Effective Date.* This Ordinance shall be in full force and effect from and after passage by the City Council and publication according to law.

Passed and adopted by _____ vote of the City of Council of the City of Henning, County of Ottertail and State of Minnesota, on this ___th day of April, 2016.

Published March 23, 2016

By: Jim Hermanson, Mayor

Attest: Gina Ellingson, City
Clerk/Treasurer

City of Henning

Application for Permitted Discharge Area

NAME: _____ PHONE: _____

ADDRESS:

1. Parcel ID number ;
2. Present zoning of above described property :
3. Number of acres of above described property :
4. Why you believe it should be considered a permitted discharge area :

Please highlight described property on the map provided

the undersigned, hereby apply for the considerations described above and declare that the information and materials in support of this application are in compliance with adopted City

policy and ordinance requirements are complete to the best of my knowledge,

understand that this application will be processed with established City review procedures and Minnesota Statutes Section 15.99 as amended, at such time as It is determined to be complete,

Property Owner Signature

Date

For *Mu. Use Only

Date Submitted

Date of Council Meeting

City Council Action (Circle One): Approved

Denial

Date or Action

convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.

Penalty, see § 130.99

§ 130.02 DISCHARGING FIREARMS.

(A) *Shooting upon, over or near a cemetery.* Except as provided by M.S. § 97A.137, for wildlife management areas that are 40 acres or greater, no person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.

(B) *Hunting near a city park.* Except as provided by M.S. § 97A.137, for wildlife management areas that are 40 acres or greater, no person shall hunt, shoot, or kill game within ½ mile of a city park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.

(C) *Discharge of firearms prohibited in certain places.* No person shall discharge a firearm on a lawn, park, playground, orchard, or other ground appurtenant to a school, church, or an inhabited dwelling, the property of another, or a charitable institution. This section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land.

(D) *Discharging firearms on highways prohibited.* No person shall discharge a firearm upon or over a public road or highway.

(E) *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

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

Penalty, see § 130.99

§ 130.03 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.

(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 § 130.99

§ 130.04 FIREWORKS.

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

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

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

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

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

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

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

§ 130.99 PENALTY.

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

(B) *Curfew penalties.*

(1) *Minors.* Any minor found to be in violation of § 130.03 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260B.198, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of § 130.03 shall be guilty of a misdemeanor.